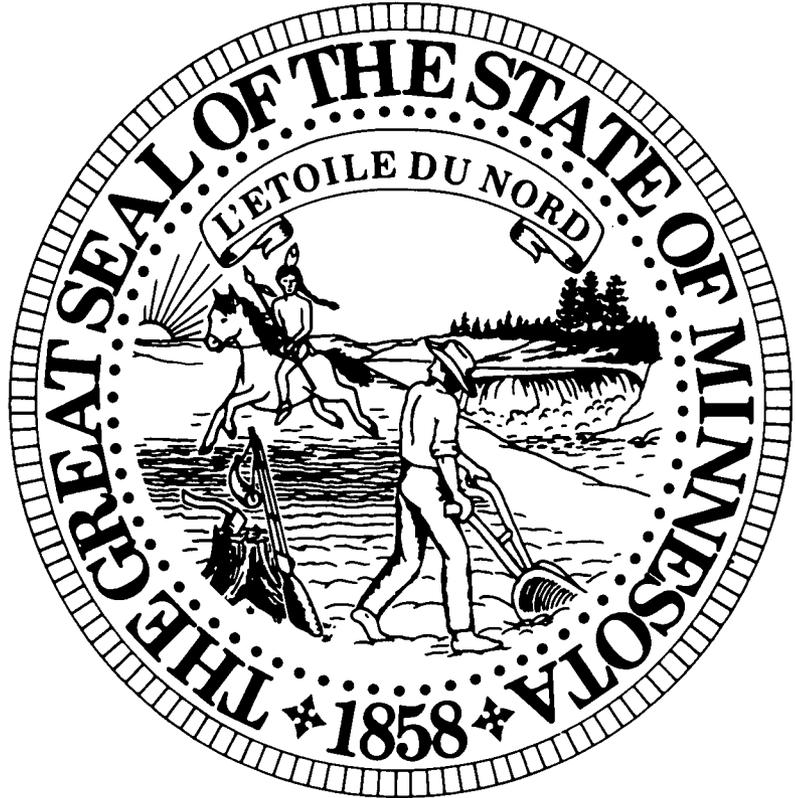


The Minnesota  
**State  
Register**

Department of Administration—Print Communications Division



Rules edition  
Published every Monday

**27 August 1990**

**Volume 15, Number 9**

**Pages 469-544**

# State Register

## Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, containing executive and commissioners' orders, proposed and adopted rules, official notices, state and non-state contracts, contract awards, grants, supreme court decisions, and a monthly calendar of cases to be heard by the state supreme court.

A *Contracts Supplement* is published every Thursday and contains additional state contracts and advertised bids, and the most complete source of state contract awards available in one source.

### Printing Schedule and Submission Deadlines

Vol. 15 Issue Number	*Submission deadline for Adopted and Proposed Rules, Commissioners' Orders**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
9	Monday 13 August	Monday 20 August	Monday 27 August
10	Monday 20 August	Monday 27 August	Tuesday 4 September
11	Monday 27 August	Friday 31 August	Monday 10 September
12	Friday 31 August	Monday 10 September	Monday 17 September

\*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

\*\*Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the *State Register* editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

The *State Register* is published every Monday (Tuesday when Monday is a holiday) by the State of Minnesota, Department of Administration, Print Communications Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to *Minnesota Statutes* § 14.46. A *State Register Contracts Supplement* is published every Thursday. The Monday edition is the vehicle for conveying all information about state agency rulemaking, including official notices; hearing notices; proposed, adopted and emergency rules. It also contains executive orders of the governor; commissioners' orders; state contracts and advertised bids; professional, technical and consulting contracts; non-state public contracts; state grants; decisions of the supreme court; a monthly calendar of scheduled cases before the supreme court; and other announcements. The Thursday edition contains additional state contracts and advertised bids, and the most complete listing of contract awards available in one source.

In accordance with expressed legislative intent that the *State Register* be self-supporting, the following subscription rates have been established: the Monday edition costs \$140.00 per year and includes an index issue published in August (single issues are available at the address listed above for \$3.50 per copy); the combined Monday and Thursday editions cost \$195.00 (subscriptions are not available for just the *Contracts Supplement*); trial subscriptions are available for \$60.00, include both the Monday and Thursday edition, last for 13 weeks, and may be converted to a full subscription anytime by making up the price difference. No refunds will be made in the event of subscription cancellation.

Both editions are delivered postpaid to points in the United States, second class postage paid for the Monday edition at St. Paul, MN, first class for the Thursday edition. Publication Number 326630 (ISSN 0146-7751).

Subscribers who do not receive a copy of an issue should notify the *State Register* circulation manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

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## FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

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# Minnesota Rules: Amendments and Additions

## NOTICE: How to Follow State Agency Rulemaking in the *State Register*

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 75 state agencies have the authority to issue rules. Each agency is assigned specific *Minnesota Rule* chapter numbers. Every odd-numbered year the *Minnesota Rules* are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

If an agency seeks outside opinion before issuing new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION in the *Official Notices* section of the *State Register*. When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-26; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August. For copies of the *State Register*, a subscription, the annual index, the *Minnesota Rules* or the *Minnesota Guidebook to State Agency Services*, contact the Print Communications Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-9747.

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Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

## Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

## Department of Human Services

### Proposed Permanent Rules Relating to Family Day Care, Adult Foster Care, and Child Foster Care Licensing Functions of County and Private Agencies

#### Notice of Intent to Adopt a Rule Without a Public Hearing and Notice of Intent to Adopt a Rule With a Public Hearing If Twenty-Five or More Persons Request a Hearing

**NOTICE IS HEREBY GIVEN** that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, section 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Statutes*, sections 245A.09 and 245A.16.

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.131 to 14.20. **PLEASE NOTE that if twenty-five or more persons submit written requests for a public hearing within the 30-day comment period, a hearing will be held on October 4, 1990 unless a sufficient number withdraw their request, in accordance with the Notice of Public Hearing on these same rules published in this *State Register* and mailed to persons registered with the Department of Human Services. To verify whether a hearing will be held, please call the Department of Human Services between September 27, 1990 and October 3, 1990 at (612) 296-7815.**

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on September 26, 1990.

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A free copy of this rule is available upon request for your review from: Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816 or by calling (612) 296-7454.

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

The purpose of the proposed rule is to promote uniform enforcement of rules governing licensure of family day care, adult foster care, and child foster care programs and to establish minimum standards for performing licensing functions related to those rules. The proposed rule affects county agencies performing family day care, adult foster care, and child foster care licensing functions and private agencies authorized to perform child foster care licensing functions.

The proposed rule identifies the purpose of the rule and its applicability to county and private agencies; defines words and phrases that have meanings specific to the rule; identifies specific licensing functions delegated to county and private agencies; sets forth procedures for handling license applications, including information that must be given to prospective applicants, licensing study

requirements, and standards for making licensing recommendations; establishes procedures for variances; establishes additional licensing requirements for foster care programs; establishes requirements for investigating allegations of licensing violations; establishes procedures governing unlicensed programs that are required to be licensed; establishes requirements for issuing correction orders; establishes standards for recommending negative licensing actions; requires agencies to enforce orders of the commissioner; sets forth procedures that county agencies must comply with when representing the commissioner in contested cases; establishes certain administrative requirements; sets forth procedures governing certification of county agencies; and sets forth procedures for authorizing private agencies to perform licensing functions.

A **STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, or by calling (612) 296-7454.

The adoption of this rule will increase aggregate local public body spending by over \$100,000 in each of the first two years following the rule's adoption. See the fiscal note attached to this notice which contains the Department's reasonable estimate of the total cost to all local public bodies in the state to implement the rule for the two years immediately following adoption of the rule.

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

Ann Wymia, Commissioner

#### **Notice of Hearing and Notice of Intent to Cancel Hearing If Fewer than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing**

**NOTICE IS HEREBY GIVEN** that a public hearing on the above-entitled matter will be held in Room 500 South, State Office Building, 100 Constitution Avenue, St. Paul, Minnesota on October 4, 1990 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

**PLEASE NOTE, however, that the hearing will be cancelled if fewer than twenty-five persons request a hearing in response to the Notice of Intent to Adopt these same rules without a public hearing published in this *State Register* and mailed to persons registered with the Department of Human Services.** To verify whether a hearing will be held, please call the Department of Human Services between September 27, 1990 and October 3, 1990 at (612) 296-7815.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Jon L. Lunde, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7645, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 and 14.50. The rule hearing is governed by *Minnesota Statutes*, sections 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The purpose of the proposed rule is to promote uniform enforcement of rules governing licensure of family day care, adult foster care, and child foster care programs and to establish minimum standards for performing licensing functions related to those rules. The proposed rule affects county agencies performing family day care, adult foster care, and child foster care licensing functions and private agencies authorized to perform child foster care licensing functions.

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## Proposed Rules

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The proposed rule identifies the purpose of the rule and its applicability to county and private agencies; defines words and phrases that have meanings specific to the rule; identifies specific licensing functions delegated to county and private agencies; sets forth procedures for handling license applications, including information that must be given to prospective applicants, licensing study requirements, and standards for making licensing recommendations; establishes procedures for variances; establishes additional licensing requirements for foster care programs; establishes requirements for investigating allegations of licensing violations; establishes procedures governing unlicensed programs that are required to be licensed; establishes requirements for issuing correction orders; establishes standards for recommending negative licensing actions; requires agencies to enforce orders of the commissioner; sets forth procedures that county agencies must comply with when representing the commissioner in contested cases; establishes certain administrative requirements; sets forth procedures governing certification of county agencies; and sets forth procedures for authorizing private agencies to perform licensing functions.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, sections 245A.09 and 245A.16. The adoption of this rule will increase aggregate local public body spending by over \$100,000 in each of the first two years following the rule's adoption. See the fiscal note attached to this notice which contains the Department's reasonable estimate of the total cost to all local public bodies in the state to implement the rule for the two years immediately following adoption of the rule.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816, or by calling (612) 296-7454. This rule is also available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

**NOTICE:** Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

**NOTICE IS HEREBY GIVEN** that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

*Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11, as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials; or

(b) who spends more than \$250, not including traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Ann Wynia, Commissioner

**Fiscal Note: For fiscal note pertaining to this rule, see page 521 of this State Register.**

### Rules as Proposed

#### 9502.0335 LICENSING PROCESS.

Subpart 1. **License application.** A license to operate a family or group family day care residence must be obtained from the department.

[For text of items A and B, see M.R.]

C. ~~The agency shall supply the applicant with the department application form, a copy of parts 9502.0315 to 9502.0445, and the department forms needed to determine compliance with parts 9502.0315 to 9502.0445. The agency shall stamp and date a signed and completed department application form on the date of receipt.~~

~~D~~ An application for licensure is complete when the applicant completes, signs, and submits all department forms and documentation needed for licensure to the agency and the agency receives all inspection, zoning, evaluation, and investigative reports, documentation, and information required to verify compliance with parts 9545.0315 to 9545.0445 and *Minnesota Statutes*.

[For text of subp 2, see M.R.]

Subp. 3. [See Repealer.]

[For text of subps 4 to 13, see M.R.]

Subp. 14. [See Repealer.]

[For text of subp 15, see M.R.]

Subp. 16. [See Repealer.]

### **Rules as proposed (all new material)**

#### **9543.0010 PURPOSE AND APPLICABILITY.**

Subpart 1. **Purpose.** The purpose of parts 9543.0010 to 9543.0150, is to promote uniform enforcement of rules governing licensure of family day care, adult foster care, and child foster care programs and to establish minimum standards for performing licensing functions related to those rules.

Subp. 2. **Full applicability to county agencies.** Parts 9543.0040 to 9543.0130 apply in their entirety to county agencies.

Subp. 3. **Limited applicability to private agencies.** Parts 9543.0040 to 9543.0070, 9543.0090 to 9543.0110, and 9543.0130 apply to private agencies authorized by the commissioner to perform licensing functions related to child foster care.

#### **9543.0020 DEFINITIONS.**

Subpart 1. **Scope.** As used in parts 9543.0010 to 9543.0150, the following terms have the meaning given them.

Subp. 2. **Abuse.** "Abuse" has the meaning given it in *Minnesota Statutes*, section 626.557, subdivision 2, paragraph (d).

Subp. 3. **Agency.** "Agency" means a county agency as defined in subpart 9 or a private agency as defined in subpart 17.

Subp. 4. **Applicant.** "Applicant" means an applicant as defined in *Minnesota Statutes*, section 245A.02, subdivision 3, who has completed and signed a license application form. Applicant includes a current license holder who is seeking relicensure.

Subp. 5. **Authorized.** "Authorized" means that a private agency is in compliance with parts 9543.0040 to 9543.0070, 9543.0090 to 9543.0110, and 9543.0130 and has been licensed by the commissioner to perform the child foster care program licensing functions under part 9543.0030, subpart 2.

Subp. 6. **Certification.** "Certification" means the commissioner's written notice to a county agency performing licensing functions delegated under part 9543.0030, subpart 1, that the county agency is in compliance with the requirements in parts 9543.0040 to 9543.0130.

Subp. 7. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designated representative.

Subp. 8. **Complaint.** "Complaint" means a report of an alleged license violation made to the agency about a program.

Subp. 9. **County agency.** "County agency" has the meaning given it in *Minnesota Statutes*, section 245A.02, subdivision 6.

Subp. 10. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 11. **Imminent danger.** "Imminent danger" means a child or vulnerable adult is threatened with immediate and present abuse or neglect that is life-threatening or likely to result in abandonment, sexual abuse, or serious physical injury.

Subp. 12. **License.** "License" has the meaning given it in *Minnesota Statutes*, section 245A.02, subdivision 8.

Subp. 13. **License holder.** "License holder" has the meaning given it in *Minnesota Statutes*, section 245A.02, subdivision 9.

Subp. 14. **Maltreatment.** "Maltreatment" has the meaning given it in *Minnesota Statutes*, section 626.556, subdivision 10e.

Subp. 15. **Negative licensing action.** "Negative licensing action" means denial of a license application or probation, suspension, revocation, or immediate suspension of an existing license.

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## Proposed Rules

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Subp. 16. **Neglect.** "Neglect" has the meaning given it in *Minnesota Statutes*, sections 626.556, subdivision 2, paragraph (c) and 626.557, subdivision 2, paragraph (e).

Subp. 17. **Private agency.** "Private agency" has the meaning given it in *Minnesota Statutes*, section 245A.02, subdivision 12.

Subp. 18. **Program.** "Program" means family day care, child foster care, or adult foster care programs.

Subp. 19. **Prospective applicant.** "Prospective applicant" means a person who expresses interest to an agency in applying for a license to provide a program but who has not submitted a signed application form to the agency.

Subp. 20. **Variance.** "Variance" means written permission from the commissioner for a license holder to depart for a specified time from a standard specified in rule.

Subp. 21. **Violation.** "Violation" means failure to comply with applicable laws or rules governing a program.

### 9543.0030 LICENSING FUNCTIONS.

Subpart 1. **Delegation to county agencies.** County agencies are delegated responsibility to perform the following functions related to licensure of programs:

- A. accept and process license applications;
- B. conduct inspections, studies, and evaluations of programs;
- C. recommend approval or denial of applications for licensure;
- D. process variance requests;
- E. monitor compliance with applicable licensing rules;
- F. investigate allegations of license violations;
- G. investigate unlicensed programs;
- H. issue correction orders;
- I. recommend forfeiture orders and negative licensing actions;
- J. enforce orders of the commissioner; and
- K. represent the commissioner in contested case proceedings conducted under *Minnesota Statutes*, chapter 14.

Subp. 2. **Delegation to private agencies.** Private agencies must be authorized by the commissioner to perform the following functions related to the licensure of child foster care programs:

- A. accept and process license applications;
- B. conduct inspections, studies, and evaluations of programs;
- C. recommend approval or denial of applications for licensure;
- D. process variance requests;
- E. monitor compliance with child foster care licensing rules;
- F. investigate allegations of license violations;
- G. issue correction orders;
- H. recommend forfeiture orders and negative licensing actions;
- I. enforce orders of the commissioner; and
- J. assist and cooperate with the commissioner and attorney general in contested case proceedings.

### 9543.0040 LICENSE APPLICATION PROCEDURES.

Subpart 1. **Licensure information.** The agency shall provide information on license application procedures to prospective applicants according to items A to C.

- A. The agency shall provide in writing to all prospective applicants, the information in subitems (1) to (3):
  - (1) a summary of license requirements;
  - (2) a description of the agency's licensing study process; and
  - (3) the agency's timelines for processing license applications.

B. The agency shall immediately provide the license application form prescribed by the commissioner to every prospective applicant who requests an application.

C. Upon receiving a completed and signed license application form, the agency shall provide the applicant a copy of the program rules.

Subp. 2. **Licensing study.** The agency shall perform a licensing study of the applicant that includes:

- A. a background study performed according to subpart 3;
- B. a written record of a home study that includes:
  - (1) on-site inspection of the residence;
  - (2) home visits necessary to fully evaluate the applicant's qualification for licensure; and
  - (3) when an applicant has been operating a program:
    - (a) an observation of the program in operation;
    - (b) documented requests for program evaluations from parents or legal guardians of children in family day care; and
    - (c) evaluations from placement workers for foster care;

C. three letters of reference;

D. where the agency has knowledge the applicant was previously licensed, a reference from that previous agency;

E. reports from the fire marshal, building officials, and health officials that are required by rules governing the program;

F. for foster care licensing applicants, the information in part 9543.0060, subpart 4; and

G. any other reports or evaluations necessary to fully evaluate the applicant's qualifications for licensure and compliance with applicable laws and rules.

Subp. 3. **Background study.** The agency shall conduct a background study according to items A to C.

A. The study shall include the following individuals:

- (1) the applicant;
- (2) all individuals over age 13 living in the household; and
- (3) any other individuals specified in *Minnesota Statutes*, section 245A.04, subdivision 3, paragraph (a).

B. The study shall include the following records:

- (1) conviction records of the Minnesota Bureau of Criminal Apprehension;
- (2) county agency records of substantiated abuse or neglect of vulnerable adults and maltreatment of minors;
- (3) juvenile court records of delinquency proceedings held within the five years preceding application or five years preceding the 18th birthday of anyone over age 13 living in the household, whichever time period is longer; and
- (4) any other information, including arrest and investigation records maintained by the Minnesota Bureau of Criminal Apprehension, county attorneys, county sheriffs, courts, county agencies, local police, and the national criminal record repository, and criminal records of other states, if there is reasonable cause to believe the information is pertinent to disqualification of the individual under part 9543.3070.

C. When a background study indicates a subject is disqualified under part 9543.3070, the agency shall:

- (1) notify the applicant in writing that:
  - (a) the study indicates a subject is disqualified;
  - (b) the subject has the right to request reconsideration from the commissioner as provided in part 9543.3080; and
  - (c) the application will be denied unless the commissioner sets aside the disqualification; and
- (2) make a recommendation to the commissioner whether the disqualification should be set aside.

Subp. 4. **Completed application.** An application is completed when all studies, reports, and evaluations in subparts 2 and 3 have been completed and received by the agency.

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## Proposed Rules

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Subp. 5. **Licensing recommendation.** The agency shall forward its licensure recommendation to the commissioner within 20 working days after an application is completed. The agency shall make its recommendation according to items A to C:

A. The agency shall recommend that the commissioner issue a license when the agency determines that the applicant fully complies with laws and rules governing the program and is qualified for licensure.

B. The agency may recommend that the commissioner issue a license and grant a variance according to part 9543.0050.

C. The agency shall recommend that the commissioner deny a license application if the agency determines the applicant fails to fully comply with laws or rules governing the program and variance requirements. The agency shall submit evidence to support its recommendation. Evidence may include:

- (1) documentation of specific facility deficiencies that endanger the health or safety of persons served by the program;
- (2) documentation of any disqualification that has not been set aside;
- (3) reports of agency investigations and on-site observations;
- (4) reports from law enforcement agencies;
- (5) reports from county child or adult protection services;
- (6) reports from fire, building, or health officials;
- (7) complaints that relate to the program; or
- (8) any other evidence that the applicant is not in compliance with applicable laws or rules governing the program.

Subp. 6. **License renewal.** Before the expiration date of a license, the agency shall:

A. at least 30 days before the license expiration date, provide an application form and notice of the license expiration date to the license holder;

B. conduct a licensing renewal study that includes information under subpart 2, items A, B, E, and F; and

C. make a licensing recommendation to the commissioner.

Subp. 7. **License extension.** Before the expiration date of a program that is being investigated or a program that is appealing an order of revocation or suspension, the agency shall request the commissioner to extend the license pending disposition of the investigation or appeal.

Subp. 8. **Tracking licensing progress.** The agency shall track the progress of each application for licensure on a form approved by the commissioner including:

A. the dates and documentation of all events described in subparts 2 to 7;

B. the status of the license application 120 calendar days after receipt of a signed application form;

C. the date and circumstances when a license application is withdrawn or a license is returned or not renewed by the license holder;

D. the date the license is issued or denied; and

E. if a license is issued, the date the license is effective and the expiration date of the license.

### 9543.0050 VARIANCE REQUESTS.

Subpart 1. **Variance information.** A variance request must include the following information:

A. the part or parts of the rule for which a variance is sought;

B. the reasons why a variance from the specified provisions is sought;

C. the period of time for which a variance is requested;

D. written approval from the fire marshal, building inspector, or health authority when the variance request is for a variance from a fire, building, or health code; and

E. alternative equivalent measures the applicant or license holder will take to ensure the health and safety of persons served by the program if the variance is granted.

Subp. 2. **Variance procedures.** Except as provided in subpart 3, a request for a variance must be submitted in writing by the applicant or license holder.

Except for variance authority granted to a county agency under part 9502.0335, subpart 8b, the agency shall forward to the commissioner within ten working days of receipt of the request the information in subpart 1 and the agency's recommendation to approve or deny the request.

The commissioner shall send a written decision to grant or deny the variance request to the applicant or license holder and to the agency.

Subp. 3. **Foster care capacity variance at request of agency.** The agency may orally request from the commissioner a variance from child foster care capacity limits on behalf of a license holder. If the commissioner grants the variance, the agency shall submit to the commissioner the information in subpart 1 within five working days after the variance is granted.

**9543.0060 LICENSING FOSTER CARE PROGRAMS.**

Subpart 1. **Additional foster care licensing requirements.** Agencies that perform foster care licensing functions shall comply with the requirements in subparts 2 to 6, in addition to other applicable requirements.

Subp. 2. **Program information.** The agency shall provide prospective applicants with information about foster care to enable the prospective applicant to decide whether to apply for licensure. The information must include:

- A. the types of individuals the agency places in foster care;
- B. the responsibilities of foster care license holders and of the agency; and
- C. the agency's policies governing foster care.

Subp. 3. **Orientation and preplacement training.** The agency shall provide applicants the orientation and preplacement training required in rules governing the program.

Subp. 4. **Foster care licensing study.** In addition to the licensing study under part 9543.0040, subpart 2, the licensing study of an applicant for foster care must include:

- A. in-person interviews with all family members and other adults living in the household;
- B. social history information; and
- C. an evaluation of whether the individual meets the specific qualifications required in *Minnesota Rules* governing child foster care or adult foster care.

A written report of the foster care licensing study must be kept in the applicant's record.

Subp. 5. **Duties of agency.** The agency shall:

- A. enter into a foster parent agreement with the license holder for child foster care;
- B. coordinate with placement workers to ensure that the license holder is visited by a placement worker or the licensor at least monthly for the first six months after the first placement in child foster care;
- C. provide the license holder a copy of the annual relicensing evaluation report;
- D. establish a grievance mechanism for resolving differences between the agency and the license holder and provide the license holder with a written description of grievance procedures;
- E. ensure that the foster care provider has a means of contacting the agency 24 hours per day, seven days per week; and
- F. ensure that training is available to enable license holders to meet the training requirements in rules governing foster care programs.

Subp. 6. **Notice of closure.** When a foster care program is closed, the agency shall notify the commissioner on forms prescribed by the commissioner.

**9543.0070 INVESTIGATIONS OF LICENSED PROGRAMS.**

Subpart 1. **Reports of abuse or neglect of persons served by licensed programs.** If an agency receives a complaint alleging abuse or neglect of persons served by a program, the agency shall follow the procedures in items A to C.

- A. The agency shall immediately report the complaint to the county child or adult protection unit where the program is located.
- B. The agency shall cooperate with the county child or adult protection unit as requested in conducting the investigation required under part 9555.7300 or 9560.0222.
- C. Upon completion of the investigation, the agency shall take the appropriate licensing action indicated by the findings of the investigation.

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## Proposed Rules

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Subp. 2. **Timelines.** Except for reports of abuse, neglect, or maltreatment, the agency shall investigate all complaints of licensing violations received about programs for which it performs licensing functions. The agency shall investigate the complaints according to items A to C:

A. A complaint that alleges imminent danger or recurring physical injury to persons served by the program must be:

- (1) reported according to subpart 1; and
- (2) reported to the commissioner immediately.

B. Investigation of a complaint that does not indicate imminent danger to persons served by the program but that may result in a negative licensing action under part 9543.0100 must begin within three working days after the agency receives the complaint.

C. Investigation of a complaint that does not involve an issue of safety under item A or B for persons served by the program must begin within ten working days after the agency receives the complaint.

Subp. 3. **Determination.** The agency shall gather sufficient information about every complaint to:

- A. make a determination that a licensing violation occurred, did not occur, or no determination can be made; and
- B. if a violation occurred, issue a correction order or recommend a negative licensing action.

Subp. 4. **Reports of death.** The agency shall ensure that the death of a person served by a program is reported to the medical examiner or coroner and ombudsman as required in *Minnesota Statutes*, sections 626.556, subdivision 9, and 626.577, subdivision 9.

Subp. 5. **Recording complaints and investigations.** The agency shall:

- A. maintain a register for recording complaints about licensed programs and tracking the status of each investigation;
- B. record in the license holder's file the disposition of each complaint involving the license holder; and
- C. maintain the records according to *Minnesota Statutes*, section 13.46.

### 9543.0080 COUNTY INVESTIGATION OF UNLICENSED PROGRAMS.

Subpart 1. **Unlicensed family day care and adult foster care.** When a county agency learns that a family day care or adult foster care program required to be licensed is operating without a license, the county shall, within five working days, notify the operator in writing that a license is required or the program must discontinue operation.

A. If the operator discontinues the unlicensed operation, no further action is required.

B. If an operator who is eligible for licensure fails to sign an application form within 30 calendar days after notice that a license is required or fails to cooperate in the licensing study, the county agency shall:

- (1) ask the county attorney to take legal action to halt the continued operation of the program; and
- (2) inform the commissioner of the unlicensed program.

C. Nothing in items A and B prevents a county agency from immediately asking the county attorney to seek a court order against the continued operation of an unlicensed program.

Subp. 2. **Unlicensed child foster care.** The agency shall report to the county child protection unit when it learns of a child in an unlicensed foster care program that is required to be licensed.

### 9543.0090 CORRECTION ORDERS.

Subpart 1. **Correction order, training.** An agency shall not issue correction orders unless licensors have been trained by the department on procedures for issuing correction orders. A correction order must be on forms prescribed by the commissioner. A copy of the correction order must be kept in the license holder's file.

Subp. 2. **Criteria for issuing correction orders.** A correction order may be issued if all of the following conditions are met:

- A. the violation does not imminently endanger the health, safety, or rights of persons served by the program;
- B. the violation is not listed in part 9543.0100, subpart 3;
- C. the violation is not serious or chronic; and
- D. the violation will be corrected within a reasonable time.

Subp. 3. **Time limitation.** A correction order must include a specific time period for correcting the violation.

Subp. 4. **Compliance with correction order.** The agency shall ensure that license holders provide evidence of compliance with a correction order or, if appropriate, recommend further action to the commissioner.

**9543.0100 RECOMMENDING NEGATIVE LICENSING ACTIONS.**

Subpart 1. **Basis for recommendation.** When recommending a negative licensing action, the agency shall:

A. submit to the commissioner the following information:

- (1) the citation to laws or rules that have been violated;
- (2) the nature and severity of each violation;
- (3) whether the violation is recurring or nonrecurring;
- (4) the effect of the violation on persons served by the program;
- (5) an evaluation of the risk of harm to persons served; the agency may use the risk assessment completed under part 9560.0222, subpart 9;
- (6) any evaluations of the program by persons served or their families;
- (7) relevant facts, conditions, and circumstances concerning the operation of the program, including information identified in part 9543.0040, subpart 5, item C;
- (8) any relevant information about the qualifications of the applicant or license holder or persons living in the residence; and
- (9) any aggravating or mitigating factors related to the violation; and

B. notify the county attorney of the recommendation.

Subp. 2. **Immediate suspension of license.** If the agency has reasonable cause to believe that the health, safety, or rights of persons served by a program are in imminent danger, the agency must take actions described in items A to C:

A. The agency shall notify the commissioner immediately.

B. If the commissioner orders an immediate suspension, the agency shall arrange for delivery, by personal service, of written notice of immediate suspension to the license holder. The notice shall state:

- (1) the reason for the immediate suspension;
- (2) that the program must discontinue operation immediately;
- (3) the license holder's right to appeal and a contested case hearing; and
- (4) that the commissioner has taken the action.

C. The agency shall make a recommendation for further action to the commissioner.

Subp. 3. **Revocation or denial of license.** Violations that are grounds for recommending license revocation or denial include, but are not limited to:

A. immediate suspension of a license under subpart 2;

B. a disqualification in part 9543.3070, as proposed at .. *State Register* .., .., 1990, and as later adopted, or in rules governing the program;

C. a false statement knowingly made by the license holder, on the license application;

D. failure or refusal to provide the commissioner access to the physical plant and grounds, documents, persons served, and staff;

E. recurring failure to comply with discipline standards in rules governing the program;

F. severe or recurring failure to comply with capacity limits; or

G. licensing violations that occur while the license is probationary or suspended.

Subp. 4. **License suspension.** The agency may recommend license suspension rather than revocation under subpart 3 if the agency submits information demonstrating:

A. on the basis of factors in subpart 1, revocation is not warranted; and

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## Proposed Rules

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B. suspension rather than revocation:

- (1) is in the best interests of persons served by the program; and
- (2) would not pose a risk of harm to persons served by the program.

Subp. 5. **License probation.** The agency may recommend probation rather than revocation or suspension if:

- A. on the basis of factors in subpart 1, the agency demonstrates that revocation or suspension is not warranted.
- B. the agency demonstrates that continued operation of the program:
  - (1) is in the best interests of persons served by the program; and
  - (2) would not pose a risk of harm to persons served by the program; and

C. the agency submits to the commissioner a plan for monitoring the program to ensure the safety of persons served during the probationary period.

Subp. 6. **Notice to parents of negative licensing action.** The agency shall give written notice of a negative licensing action to the parents or guardians of children in the programs as follows:

A. When the agency recommends a negative licensing action to the commissioner, the agency shall immediately inform parents and guardians that a negative licensing action has been recommended and that they will be informed of the commissioner's action on the recommendation.

B. When the commissioner orders a negative licensing action, the agency shall immediately inform parents and guardians:

- (1) that a negative licensing action has been ordered and the circumstances for the action;
- (2) the effect of the negative licensing action on the operation of the program; and
- (3) that an explanation of the appeal process available to the license holder is available upon request.

C. If the commissioner does not order a negative licensing action following the agency recommendation, the agency shall inform parents and guardians when the agency receives the commissioner's decision.

Subp. 7. **Notice of negative licensing action to county.** If a negative licensing action has been ordered against a child foster care program that is supervised by a private agency, the private agency shall notify in writing the county agency in which the program is located and any county that has placements in the home.

### 9543.0110 ENFORCING ORDERS OF COMMISSIONER.

Subpart 1. **Agency enforcement of commissioner orders.** The agency shall enforce and defend all orders of the commissioner, including immediate suspension, suspension, and revocation.

Subp. 2. **Sanctioned programs.** If the agency has knowledge that a program whose license has been immediately suspended, revoked, or suspended continues to operate, the agency shall immediately report the operation to the county attorney and the commissioner.

Subp. 3. **Programs on probation.** The agency shall monitor programs on probation for compliance with the plan developed under part 9543.0100, subpart 5. If a program fails to comply with the terms of its probation, the agency shall immediately report the noncompliance to the commissioner.

### 9543.0120 REPRESENTING THE COMMISSIONER IN CONTESTED CASE PROCEEDINGS.

Subpart 1. **Contested case proceedings.** The county agency shall represent the commissioner in contested case appeals of negative licensing actions involving license holders supervised by the county agency. The county agency shall:

- A. arrange for legal consultation and representation by the county attorney;
- B. prepare all documents necessary for the contested case proceeding;
- C. within 30 days, arrange with the Office of Administrative Hearings for the services of an administrative law judge and a timely date and location for the hearing;
- D. serve the notice of and order for hearing as provided in part 1400.5600; and
- E. send a copy of the notice of and order for hearing to the commissioner.

Subp. 2. **Appeals involving private agencies.** The attorney general represents the commissioner in contested case appeals of licensing actions involving license holders licensed based on the recommendation of a private agency.

Subp. 3. **Informal dispositions, stipulated agreements.** In making an informal disposition of a contested case, the county agency shall follow the procedures in items A to D:

A. The county agency shall obtain preliminary approval from the commissioner to discuss an informal disposition of the contested case.

B. Before entering into any settlement agreement with an applicant or license holder appealing an order of the commissioner, the county agency shall discuss the terms of the proposed agreement with the commissioner.

C. If the commissioner approves of the proposed terms, the county agency shall:

(1) draft an agreement and obtain signatures of the party appealing and county representatives;

(2) submit the signed agreement to the commissioner for approval and signatures; the agreement is not effective until signed by the commissioner; and

(3) monitor the program for compliance with the terms of the agreement.

D. If the commissioner or parties are unable to reach a settlement, the county agency shall schedule a contested case hearing.

#### **9543.0130 ADMINISTRATIVE REQUIREMENTS.**

Subpart 1. **Maintaining records.** The agency must maintain a record file of each applicant and license holder that includes:

A. all records required by the rules governing the program;

B. a record of all investigations and dispositions of all investigations according to *Minnesota Statutes*, section 13.46;

C. dates and reports of all licensing studies; and

D. a list of all persons currently being served by the foster care license holder.

Subp. 2. **Commissioner access.** The agency shall provide the commissioner access to and, if requested, copies of all records and documents in an applicant or license holder's file.

Subp. 3. **Training requirements.** The agency shall require that licensors receive six hours of training each calendar year.

Training must be relevant to licensing functions or to licensed programs.

The agency must keep a record of completed training in each licensor's personnel file.

Subp. 4. **Conflict of interest.** The agency shall ensure that no agency employee or board member who applies for licensure or who is licensed to operate a program based on the agency's recommendation is involved in any licensing recommendation or action related to that employee or board member.

#### **9543.0140 COUNTY CERTIFICATION.**

Subpart 1. **County agency certification.** The commissioner shall biennially determine whether a county agency is in compliance with parts 9543.0040 to 9543.0130. When the county agency is in compliance with parts 9543.0040 to 9543.0130, the commissioner shall certify the county agency for two years.

Subp. 2. **Notification of noncompliance.** The commissioner shall notify the county agency when the county agency has failed to comply with parts 9543.0040 to 9543.0130. The notice must include:

A. the deficiencies in the county agency's licensing procedures;

B. the corrective action necessary to correct the deficiencies; and

C. the time frame for correction of the deficiencies.

Subp. 3. **County compliance.** Within 30 calendar days after receiving a notice of noncompliance, the county shall:

A. demonstrate compliance with parts 9543.0040 to 9543.0130; or

B. submit to the commissioner for approval a corrective action plan.

Subp. 4. **Review of corrective action plan.** The commissioner shall review and approve or disapprove the corrective action plan within 30 calendar days after receiving the plan.

Subp. 5. **Provisional certification.** If the county agency does not fully comply with parts 9543.0040 to 9543.0130, but the failure to comply does not constitute a risk to persons served by licensed programs, the commissioner may issue a provisional certification of the county agency upon approval of the corrective action plan submitted under subpart 3, item B.

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## Proposed Rules

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Subp. 6. **County agency decertification based on demonstrated risk of harm to program participants.** When the commissioner determines that a county agency's failure to comply with parts 9543.0040 to 9543.0130 demonstrates a risk of harm to persons served by licensed programs, the commissioner shall immediately revoke certification of the county agency and initiate sanctions as provided in subpart 7.

Subp. 7. **Funding sanction.** If the county agency is decertified, the commissioner shall certify a funding reduction according to *Minnesota Statutes*, section 245A.16, subdivision 6.

Subp. 8. **Expiration of certification.** A certification issued to a county agency expires at 12:01 a.m. on the day after the expiration date stated on the certification.

Subp. 9. **Contracting licensing functions.** A county agency must receive prior approval from the commissioner before contracting with an authorized private agency or another county agency to perform licensing functions delegated under part 9543.0030, subpart 1, and remains subject to the certification provisions in part 9543.0140. This subpart does not apply to purchase of service contracts for individual clients.

### 9543.0150 PRIVATE AGENCY AUTHORIZATION.

Subpart 1. **Private agency authorization.** The commissioner shall at least biennially determine private agencies' compliance with parts 9543.0040 to 9543.0070, 9543.0090 to 9543.0110, and 9543.0130. When a private agency is in compliance with parts 9543.0040 to 9543.0070, 9543.0090 to 9543.0110, and 9543.0130, the commissioner shall authorize the private agency to perform licensing functions delegated under part 9543.0030, subpart 2, for a period up to two years. The authorization shall specify the effective and expiration dates of the authorization.

Subp. 2. **Revocation of private agency's authorization.** When the commissioner determines that a private agency's failure to comply with parts 9543.0040 to 9543.0070, 9543.0090 to 9543.0110, and 9543.0130 demonstrates a risk of harm to persons served by licensed programs, the commissioner shall revoke the private agency's authorization to perform licensing functions under part 9543.0030, subpart 2. Revocation of a private agency's authorization is grounds for negative licensing action against a license issued under parts 9545.0750 to 9545.0830. Revocation of authorization or a negative licensing action may be appealed according to *Minnesota Statutes*, sections 245A.07 and 245A.08.

**REPEALER.** *Minnesota Rules*, parts 9502.0335, subparts 3, 14, and 16; 9502.0341, subparts 1 and 9a; 9545.0020, subparts 3 and 9; 9555.5415; and 9555.6145, subpart 6, are repealed.

**EFFECTIVE DATE.** Parts 9543.0010 to 9543.0150 and the repealer are effective January 1, 1991.

## Department of Human Services

### Proposed Permanent Rules Relating to Licensing; Background Studies

#### Notice of Intent to Adopt a Rule Without a Public Hearing and Notice of Intent to Adopt a Rule With a Public Hearing If Twenty-Five or More Persons Request a Hearing

**NOTICE IS HEREBY GIVEN** that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, section 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Statutes*, sections 245A.04, subdivision 3; and 245A.09, subdivision 1.

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.131 to 14.20. **PLEASE NOTE that if twenty-five or more persons submit written requests for a public hearing within the 30-day comment period, a hearing will be held on October 3, 1990, unless a sufficient number withdraw their request, in accordance with the Notice of Public Hearing on these same rules published in this State Register and mailed to persons registered with the Department of Human Services.** To verify whether a hearing will be held, please call the Department of Human Services between September 27, 1990 and October 2, 1990, at (612) 296-7815.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on September 26, 1990.

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A free copy of this rule is available upon request for your review from: Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816 or by calling (612) 296-7454.

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

The purpose of the proposed rule is to establish a single, uniform procedure for conducting background studies for all programs required to be licensed under the Human Services Licensing Act except for Family Systems programs (Family day care, child foster care, and adult foster care).

The proposed rule identifies the purpose of the rule and its applicability to programs licensed by the Commissioner; defines terms that have meanings specific to the rule; identifies individuals who must be studied; sets forth responsibilities of providers, subjects of a study, and the Commissioner; establishes disqualification standards; establishes procedures for reconsideration of a disqualification; establishes implementation dates; and amends other department rules with criminal disqualifications and reconsideration procedures.

**A STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816, or by calling (612) 296-7454.

Adoption of these rules will not result in additional spending by local public bodies in the excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Jim Schmidt, Department of Human Services.

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

Ann Wynia  
Commissioner

### **Notice of Hearing and Notice of Intent to Cancel Hearing If Fewer than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing**

**NOTICE IS HEREBY GIVEN** that a public hearing on the above-entitled matter will be held in Room 500 South, State Office Building, 100 Constitution Avenue, St. Paul, Minnesota on October 3, 1990, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

**PLEASE NOTE, however, that the hearing will be cancelled if fewer than twenty-five persons request a hearing in response to the Notice of Intent to Adopt these same rules without a public hearing published in this *State Register* and mailed to persons registered with the Department of Human Services.** To verify whether a hearing will be held, please call the Department of Human Services between September 27, 1990 and October 2, 1990 at (612) 296-7815.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Howard L. Kaibel, Jr., Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7608, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be

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## Proposed Rules

available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 and 14.50. The rule hearing is governed by *Minnesota Statutes*, sections 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The purpose of the proposed rule is to establish a single, uniform procedure for conducting background studies for all programs required to be licensed under the Human Services Licensing Act except for Family Systems programs (Family day care, child foster care, and adult foster care).

The proposed rule identifies the purpose of the rule and its applicability to programs licensed by the Commissioner; defines terms that have meanings specific to the rule; identifies individuals who must be studied; sets forth responsibilities of providers, subjects of a study, and the Commissioner; establishes disqualification standards; establishes procedures for reconsideration of a disqualification; establishes implementation dates; and amends other department rules with criminal disqualifications and reconsideration procedures.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, sections 245A.04, subdivision 3; and 245A.09, subdivision 1. Adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11. The department has considered the small business consideration requirements in *Minnesota Statutes*, section 14.115. The requirements imposed on small businesses are requirements imposed by statute. There are no alternative methods of establishing less stringent requirements on small businesses without subverting statutory requirements. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Jim Schmidt, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816, or by calling (612) 296-7815.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Nancy Bishop, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816, or by calling (612) 296-7454. This rule is also available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Jim Schmidt.

**NOTICE:** Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

**NOTICE IS HEREBY GIVEN** that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

*Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11, as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials; or

(b) who spends more than \$250, not including traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Ann Wynia  
Commissioner

### Rules as Proposed

#### 9502.0335 LICENSING PROCESS.

[For text of subs 1 to 5, see M.R.]

Subp. 6. **Disqualification factors.** An applicant or provider shall not be issued a license or the license shall be revoked, not renewed,

or suspended if the applicant, provider, or any other person living in the day care residence or present during the hours children are in care, or working with children:

[For text of items A and B, see M.R.]

~~C. Has had parental rights terminated under *Minnesota Statutes*, section 260.221, paragraph (b).~~

~~D. Refuses to give written consent for the disclosure of criminal history records as specified in *Minnesota Statutes*, section 245A.04, subdivision 3.~~

~~E. D. Has had a conviction of, has admitted to, or there is substantial evidence indicating incest (as prohibited in *Minnesota Statutes*, section 609.365), or physical abuse, sexual abuse, or neglect (as those terms are defined in *Minnesota Statutes*, section 626.556) a disqualification under part 9543.3070.~~

~~F. Has had a conviction of, has admitted to, or there is a preponderance of the evidence indicating the commission of any crime listed in *Minnesota Statutes*, chapter 152 and sections 609.18 to 609.21 or 609.221 to 609.378, 609.556 to 609.563, 609.66 to 609.675, 617.23 or 617.246, other than those listed in item D. Conviction, admission, or a preponderance of evidence indicating the commission of a same or similar crime in another state or national jurisdiction shall also be grounds for license denial, revocation, nonrenewal, or suspension.~~

~~G. E. Has had a child placed in foster care within the past 12 months and the agency determines the reasons for placement reflect on the ability of the provider to give care. A license may not be denied if the primary reason for the placement was due to a physical illness of the parent, mental retardation of the child, a handicap of the child, or for the temporary care of an infant being relinquished for adoption.~~

~~H. F. Has had a child placed in residential treatment within the past 12 months for emotional disturbance or antisocial behavior and the agency determines that the reasons for the placement reflect on the ability of the provider to give care.~~

Subp. 7. [See Repealer.]

[For text of subps 8 to 16, see M.R.]

### 9503.0030 QUALIFICATIONS OF APPLICANT AND STAFF.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Disqualification factors.** A staff person with direct contact with or access to children in care must disclose the arrest, conviction, and applicant background information specified in *Minnesota Statutes*, section 245A.04, subdivision 3. A license holder must not be an individual or employ an individual who:

A. has a conviction of, has admitted to, has been charged and is awaiting trial for, or there is substantial evidence indicating that the person has committed:

(1) an act of physical abuse or sexual abuse as those terms are defined in *Minnesota Statutes*, section 626.556, even if the act occurred before the effective date of that statute;

(2) an act of abuse as that term is defined in *Minnesota Statutes*, section 626.557, subdivision 2, paragraph (d), clauses (1), (2), and (3), even if the act occurred before the effective date of that statute;

(3) murder or manslaughter as those terms are defined in *Minnesota Statutes*, sections 609.185 to 609.205;

(4) the solicitation of children to engage in sexual conduct as that term is defined in *Minnesota Statutes*, section 609.352;

or

(5) the same or similar acts or crimes as those in this item listed in the laws of another state or of the United States or of another country;

B. has a conviction of, has admitted to, has an adjudication of delinquency for, has been charged and is awaiting trial for, or a preponderance of the evidence indicates the person has committed:

(1) neglect as defined in *Minnesota Statutes*, section 626.556, subdivision 2, paragraph (e);

(2) a felony under *Minnesota Statutes*, chapter 152;

(3) any crime listed in *Minnesota Statutes*, sections 609.21 to 609.294; 609.321 to 609.345; 609.365; 609.377;

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## Proposed Rules

609.378; 609.582, subdivision 1; 609.561 to 609.563; 609.66 to 609.67; 609.687; 609.71; 609.713; or 617.23 that is other than those listed in item A; or

(4) the same or similar crimes as those in this item listed in the laws of another state or of the United States or of another country;

~~C.~~ has had parental rights terminated under *Minnesota Statutes*, section 260.221, paragraph (b);

~~D.~~ has mental illness as defined in *Minnesota Statutes*, section 245.462, subdivision 20, and the behavior has or may have a negative effect on the ability of the person to provide child care or is apparent during the hours children are in care; or

~~E.~~ B. abuses prescription drugs or uses controlled substances as named in *Minnesota Statutes*, chapter 152, or alcohol to the extent that the use or abuse impairs or may impair the person's ability to provide child care or is apparent during the hours children are in care.

Subp. 4. **Reevaluation of disqualification.** An applicant or license holder that is disqualified from licensure or an employee, volunteer, or contractor of an applicant or license holder who is not permitted to work based on the disqualification factors in subpart 3 may request that the commissioner reevaluate the disqualification decision and remove the disqualification. The request for reevaluation must be made in writing and sent to the commissioner by certified mail.

~~A.~~ A request for reevaluation of a disqualification based on subpart 3, item A, ~~C, D, or E~~ must be accompanied by information establishing that the evidence relied upon by the commissioner is erroneous. The commissioner shall not disregard the evidence establishing that an act described in subpart 3, item A, ~~C, D, or E~~ occurred based on the factors in items B and ~~C.~~

~~B.~~ A request for reevaluation of a disqualification based on subpart 3, item B, must be accompanied by:

(1) copies of information held by a person, organization, or agency specified in *Minnesota Statutes*, section 245A.03, subdivision 3, pertaining to the evidence or circumstances surrounding the incident;

(2) the period of time elapsed since the incident;

(3) evidence of training or rehabilitation of the applicant or license holder, or an employee, volunteer, or contractor of an applicant or license holder that has occurred since the incident; and

(4) any other information that the applicant or license holder, or an employee, volunteer, or contractor of an applicant or license holder believes the commissioner should consider in reevaluating the disqualification decision.

~~C.~~ In determining whether or not to remove the disqualification, the commissioner shall consider the consequences of the incident that led to the finding; the vulnerability of the victim of the incident; the time elapsed without a repeat of the same or similar incident; and documentation of successful completion of training or rehabilitation pertinent to the incident.

~~D.~~ The commissioner's disposition is the final administrative agency action.

[For text of subp 5, see M.R.]

### 9525.0235 LICENSURE.

[For text of subs 1 to 5, see M.R.]

Subp. 6. **Disqualification standards.** *Minnesota Statutes*, section 245A.04, subdivision 6, requires the commissioner to apply disqualification standards in this part to evaluate results of the study in subpart 4. In order to become licensed or to remain licensed under parts 9525.0215 to 9525.0355, an applicant or license holder must not be an individual, employ or contract with an individual, or use as a volunteer an individual who has any of the characteristics in items A to ~~D.~~:

A. The individual has a conviction of, has admitted to, has been charged with and is awaiting trial for, or there is substantial evidence indicating that the individual has committed:

(1) an act of physical abuse or sexual abuse as defined in *Minnesota Statutes*, section 626.556;

(2) an act of abuse as defined in *Minnesota Statutes*, section 626.557, subdivision 2, paragraph (d), clauses (1) and (3);

(3) murder or manslaughter as defined in *Minnesota Statutes*, sections 609.185 to 609.205, and 609.2661 to 609.2665;

(4) the solicitation of children to engage in sexual conduct as defined in *Minnesota Statutes*, section 609.352; or

(5) an act or crime, similar to or the same as the acts or crimes listed in this item, that is listed under the laws of another state, the United States, or another country.

B. The individual has a conviction of, has admitted to, has an adjudication of delinquency for, has been charged with and is awaiting trial for, or a preponderance of the evidence indicates the individual has committed:

(1) neglect as defined in *Minnesota Statutes*, section 626.556 or 626.557 or abuse that is nontherapeutic conduct or

illegal use of person or property as defined in *Minnesota Statutes*, section 626.557, subdivision 2, paragraph (d), clauses (2) and (4);

(2) a felony under *Minnesota Statutes*, chapter 152;

(3) any crime listed in *Minnesota Statutes*, sections 609.17; 609.175; 609.21 to 609.224; 609.23 to 609.294; 609.321 to 609.324; 609.33 to 609.345; 609.365; 609.377; 609.378; 609.52; 609.521; 609.525; 609.53; 609.54; 609.561 to 609.563; 609.582, subdivision 1; 609.625 to 609.635; 609.66 to 609.67; 609.687; 609.71; 609.713; 609.746; 609.79; 609.795; 609.821; 609.89; or 617.23; or

(4) an act or crime, similar to or the same as the acts or crimes listed in this item, that is listed under the laws of another state or of the United States or of another country.

~~C. The individual~~ has mental illness as defined in *Minnesota Statutes*, section 245.462, subdivision 20, and the behavior has a negative effect on the ability of the individual to provide services to persons; ~~or~~

~~D. B. The individual~~ abuses prescription drugs or uses alcohol or controlled substances as named in *Minnesota Statutes*, chapter 152, or alcohol to the extent that the use or abuse impairs the individual's ability to provide services to persons.

Subp. 7. **Reevaluation of disqualification.** An applicant or license holder who is disqualified from licensure, or an employee, volunteer, or contractor of an applicant or license holder who is not permitted to work based on the disqualification standards in subpart 6 may request that the commissioner reevaluate the disqualification decision and set aside the disqualification. The request for reevaluation must be in writing and sent to the commissioner by certified mail.

A. A request for reevaluation of a disqualification based on subpart 6, item A, C, or D, must be accompanied by information establishing that the evidence relied upon by the commissioner is erroneous. The commissioner shall not disregard the evidence establishing that an act described in subpart 6, item A, C, or D, occurred based on the factors in item B.

~~B. A request for reevaluation of a disqualification based on subpart 6, item B, must be accompanied by:~~

(1) copies of information held by an individual, organization, or agency specified in *Minnesota Statutes*, section 254A.03, subdivision 3, pertaining to the evidence or circumstances surrounding the event;

(2) a statement of the period of time elapsed since the event;

(3) evidence of training or rehabilitation of the applicant or license holder, or an employee, volunteer, or contractor of an applicant or license holder that has occurred since the event; and

(4) any other information that the applicant or license holder, or an employee, volunteer, or contractor of an applicant or license holder believes the commissioner should consider in reevaluating the disqualification decision.

~~C. In determining whether or not to set aside a disqualification based on subpart 6, item B, the commissioner shall consider the risk of harm to persons, including the consequences of the event that led to the finding; the vulnerability of the victim of the event; the time elapsed without a repeat of the same or similar event; and documentation of successful completion of training or rehabilitation pertinent to the event.~~

~~D. Notice by commissioner of reevaluation decision.~~ Within 30 days after the commissioner has received all information necessary to reevaluate a disqualification, the commissioner shall inform the applicant or license holder and the individual involved, in writing, whether the disqualification has been set aside or affirmed, and the reasons for this decision.

~~E. B.~~ The commissioner's disposition of a request for reevaluation of a disqualification under this part is the final administrative agency action.

[For text of subs 8 to 15, see M.R.]

#### 9525.1520 LICENSING PROCESS.

[For text of subs 1 to 4, see M.R.]

Subp. 5. [see Repealer.]

Subp. 6. **License denial or suspension.** The commissioner shall not issue a license or shall immediately suspend a license when one or any combination of the conditions described in item A, B, or C occurs;

A. The applicant or provider or a present employee of the applicant or provider:

**KEY: PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

## Proposed Rules

(1) Refuses to give written consent to disclosure of information required by the commissioner to conduct a licensing study as specified in subpart 5; or

(2) Has been convicted of a crime or has admitted to an act or there is a preponderance of evidence of an act that directly relates to the physical abuse, sexual abuse or neglect of children as defined in *Minnesota Statutes*, section 626.556, subdivision 2, or the abuse or neglect of vulnerable adults as defined in *Minnesota Statutes*, section 626.557, subdivision 2, clauses (d) and (e), and subdivision 3, and does not show evidence of sufficient rehabilitation and present fitness to care for vulnerable adults. The factors in *Minnesota Statutes*, section 364.03, subdivisions 2 and 3 must be considered in determining whether the act or conviction directly relates to the abuse or neglect of vulnerable adults and whether the individual has shown evidence of sufficient rehabilitation and fitness.

~~B. A.~~ The service sites owned or leased by the applicant do not comply with the building, fire, and health codes under parts 9525.1500 to 9525.1690 and the deficiencies cited threaten the health, safety, or rights of clients.

~~C. B.~~ The provider is cited for other deficiencies that immediately threaten the health, safety, or rights of clients.

[For text of subs 7 to 14, see M.R.]

### 9525.2020 LICENSURE.

[For text of subs 1 and 2, see M.R.]

Subp. 3. **Disqualification standards.** ~~*Minnesota Statutes*, section 245A.04, subdivision 6, requires the commissioner to apply disqualification standards in this part to evaluate results of the study made under subpart 2. In order to become licensed or to remain licensed under parts 9525.2000 to 9525.2140, an applicant or license holder must not be an individual, employ or subcontract with an individual, or use as a volunteer an individual who has any of the characteristics in items A to D:~~

~~A. The individual has a conviction of, has admitted to, has been charged with and is awaiting trial for, or there is substantial evidence indicating that the individual has committed:~~

~~(1) an act of physical abuse or sexual abuse as defined in *Minnesota Statutes*, section 626.556;~~

~~(2) an act of abuse as defined in *Minnesota Statutes*, section 626.557, subdivision 2, paragraph (d), clauses (1) to (3);~~

~~(3) murder or manslaughter as defined in *Minnesota Statutes*, sections 609.185 to 609.205, and 609.2661 to 609.2665;~~

~~(4) the solicitation of children to engage in sexual conduct as defined in *Minnesota Statutes*, section 609.352; or~~

~~(5) an act or crime similar to or the same as the acts or crimes listed in this item that is listed in the laws of another state, the United States, or another country.~~

~~B. The individual has a conviction of, has admitted to, has an adjudication of delinquency for, has been charged with, is awaiting trial for, or a preponderance of the evidence indicates that the individual has committed:~~

~~(1) neglect as defined in *Minnesota Statutes*, section 626.556 or 626.557, or abuse that is nontherapeutic conduct or illegal use of person or property as defined in *Minnesota Statutes*, section 626.557, subdivision 2, paragraph (d), clauses (2) and (4);~~

~~(2) a felony under *Minnesota Statutes*, chapter 152;~~

~~(3) any crime listed in *Minnesota Statutes*, sections 609.17; 609.175; 609.21 to 609.224; 609.23 to 609.294; 609.321 to 609.324; 609.33 to 609.345; 609.365; 609.377; 609.378; 609.52; 609.521; 609.525; 609.53; 609.54; 609.561 to 609.563; 609.582, subdivision 1; 609.625 to 609.635; 609.66 to 609.67; 609.687; 609.71; 609.713; 609.746; 609.79; 609.795; 609.821; 609.89; or 617.23; or~~

~~(4) an act or crime similar to or the same as the acts and crimes listed in this item that is listed in the laws of another state, the United States, or another country.~~

~~C. The individual has mental illness as defined in *Minnesota Statutes*, section 245.462, subdivision 20, and the mental illness has a negative effect on the ability of the individual to provide service to persons receiving services; or~~

~~D. B. The individual abuses prescription drugs or uses alcohol or controlled substances as named in *Minnesota Statutes*, chapter 152, to the extent that the use or abuse impairs the individual's ability to provide services.~~

Subp. 4. **Reevaluation of disqualification.** An applicant or a license holder who is disqualified from licensure, or an employee, volunteer, or subcontractor of an applicant or license holder, who is not permitted to work based on the disqualification standards in this subpart 3 may request that the commissioner reevaluate the disqualification decision and set aside the disqualification. The request for reevaluation must be made in writing and sent to the commissioner by certified mail.

A. A request for reevaluation of a disqualification based on subpart 3, item A, C, or D must be accompanied by information

establishing that the evidence relied upon by the commissioner is erroneous. The commissioner shall not disregard the evidence establishing that an act described in subpart 3, item A, C, or D, occurred based on the factors in item B.

~~B.~~ A request for reevaluation of a disqualification based on subpart 3, item B, must be accompanied by:

(1) copies of information held by an individual, organization, or agency specified in *Minnesota Statutes*, section 245A.03, subdivision 3, pertaining to the evidence or circumstances surrounding the event;

(2) a statement of the period of time elapsed since the event;

(3) evidence of training or rehabilitation of the applicant or license holder, or an employee, volunteer, or contractor of an applicant or license holder that has occurred since the event; and

(4) any other information that the applicant or license holder, or an employee, volunteer, or contractor of an applicant or license holder believes the commissioner should consider in reevaluating the disqualification decision.

~~C.~~ In determining whether or not to set aside a disqualification based on subpart 3, item B, the commissioner shall consider the risk of harm to persons, including consequences of the event that led to the finding; the vulnerability of the victim of the event; the time elapsed without a repeat of the same or similar event; and documentation of successful completion of training or rehabilitation pertinent to the incident.

~~D.~~ Within 30 days after the commissioner has received all information necessary to reevaluate a disqualification, the commissioner shall inform the applicant or license holder and the individual involved, in writing, whether the disqualification has been set aside or affirmed, and the reasons for this decision.

~~E. B.~~ The commissioner's disposition of a request for reevaluation of a disqualification under this part is the final administrative agency action.

[For text of subps 5 to 9, see M.R.]

#### **9530.4270 STAFF QUALIFICATIONS.**

Subpart 1. **Qualifications applying to all employees working directly with clients.** All employees working directly with clients must meet the following qualifications:

A. the employee must be 18 years of age or older;

~~B.~~ the employee must not have had a felony conviction or have been incarcerated as a result of a felony conviction in the last three years; and

~~C. B.~~ program directors, chemical dependency counselor supervisors, and employees who are responsible for the provision of rehabilitative services must document two years of freedom from chemical use problems.

[For text of subps 2 to 7, see M.R.]

#### **Rules as Proposed (all new material)**

##### **9543.3000 PURPOSE.**

The purpose of parts 9543.3000 to 9543.3090 is to establish procedures and standards for background studies of individuals affiliated with programs subject to licensure under *Minnesota Statutes*, chapter 245A, to ensure the health, safety, and rights of persons served by those programs. Parts 9543.3000 to 9543.3090 are not intended to govern personnel decisions of employers except that personnel decisions may be affected if an individual has a disqualification under part 9543.3070.

##### **9543.3010 APPLICABILITY.**

Parts 9543.3000 to 9543.3090 apply to all residential and nonresidential programs subject to licensure under *Minnesota Statutes*, chapter 245A, except child foster care, adult foster care, and family day care programs. Parts 9543.3070 and 9543.3080 apply to child foster care, adult foster care, and family day care programs.

##### **9543.3020 DEFINITIONS.**

Subpart 1. **Scope.** As used in parts 9543.3000 to 9543.3090, the following terms have the meanings given them in this part.

Subp. 2. **Background study.** "Background study" means the investigation conducted by the commissioner to determine whether a subject is disqualified from direct contact with persons served by a program.

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## Proposed Rules

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services, or the commissioner's designated representative including county agencies and private agencies.

Subp. 4. **County agency.** "County agency" has the meaning given in *Minnesota Statutes*, section 245A.02, subdivision 6.

Subp. 5. **Direct contact.** "Direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to persons served by a program. Direct contact includes direct access to children in programs serving children and to persons receiving service in adult foster care programs.

Subp. 6. **Disqualification or disqualified.** "Disqualification" or "disqualified" means an individual identified in part 9543.3030 has committed an act or has a characteristic identified in part 9543.3070.

Subp. 7. **License.** "License" has the meaning given in *Minnesota Statutes*, section 245A.02, subdivision 8.

Subp. 8. **Perpetrator.** "Perpetrator" means a person responsible for the care of a child, as defined in *Minnesota Statutes*, section 626.556, subdivision 2, paragraph (b), or the caretaker of a vulnerable adult as defined in *Minnesota Statutes*, section 626.557, subdivision 2, paragraph (c), who is identified as having committed maltreatment of a minor or abuse or neglect of a vulnerable adult.

Subp. 9. **Program.** "Program" means a nonresidential program as defined in *Minnesota Statutes*, section 245A.02, subdivision 10, or a residential program as defined in *Minnesota Statutes*, section 245A.02, subdivision 14.

Subp. 10. **Provider.** "Provider" means an applicant as defined in *Minnesota Statutes*, section 245A.02, subdivision 3, or license holder as defined in *Minnesota Statutes*, section 245A.02, subdivision 9.

Subp. 11. **Subject.** "Subject" means an individual identified in part 9543.3030 who is required to have a background study.

### 9543.3030 INDIVIDUALS WHO MUST BE STUDIED.

A background study must be conducted of the following persons:

- A. individuals who are applicants for licensure or license holders of programs licensed by the commissioner;
- B. individuals over age 13 living in the household where a program is operated;
- C. current employees or contractors of a provider who have direct contact with persons being served by the program;
- D. individuals who, even if employed or under contract with an individual or entity other than the provider, under the direction of the provider have direct contact with persons served by the provider's program; and
- E. volunteers who provide program services to persons served if:
  - (1) the volunteer has direct contact with persons served; and
  - (2) the volunteer is not directly supervised.

"Directly supervised" means being within sight or hearing of an individual who has passed a background study and who is capable of intervening to protect persons being served by the program.

### 9543.3040 RESPONSIBILITIES OF PROVIDER.

Subpart 1. **General.** A provider must require every individual identified in part 9543.3030 to complete the background information form prescribed by the commissioner.

Subp. 2. **Form submission.** A provider must submit completed background study forms to the commissioner:

- A. before initial licensure and with every license renewal application; and
- B. before a subject first has direct contact with persons served by the provider's program.

Subp. 3. **Direct contact prohibited.** A provider must ensure that a subject who is disqualified by the commissioner does not have direct contact with persons receiving services from the program.

Subp. 4. **Employment termination.** Termination of a subject in good faith reliance on a notice of disqualification issued by the commissioner does not subject the provider to civil liability.

Subp. 5. **Record retention.** The subject's personnel file must contain a current notice issued by the commissioner under part 9543.3060, subpart 5. A current notice demonstrates a background study has been completed within at least 12 months.

### 9543.3050 RESPONSIBILITIES OF SUBJECT.

A subject must provide to the provider the information necessary to ensure an accurate background study, including:

- A. the subject's first, middle, and last name and all other names by which the individual has been known;
- B. current home address, city, county, and state of residence;
- C. counties of residence for the past five years;

D. date of birth;

E. sex;

F. driver's license number or state identification number; and

G. whether the subject has prior convictions for crimes listed in part 9543.3070 or substantiated reports of abuse or neglect of vulnerable adults or maltreatment of children.

#### **9543.3060 RESPONSIBILITIES OF COMMISSIONER.**

Subpart 1. **Negative licensing action.** The commissioner has reasonable cause to deny a license or to immediately suspend, suspend, or revoke a license if a provider:

A. fails or refuses to cooperate with the commissioner in conducting background studies as required in parts 9543.3000 to 9543.3090; or

B. permits a subject who has been disqualified by the commissioner to be in direct contact with persons served by the program.

Subp. 2. **Review of records.** In conducting the background study, the commissioner shall review:

A. conviction records of the Minnesota Bureau of Criminal Apprehension;

B. records of substantiated abuse or neglect of vulnerable adults and maltreatment of minors in licensed programs;

C. juvenile court records on a subject identified in part 9543.3030, item B, that relate to delinquency proceedings within the five years preceding application or preceding the subject's 18th birthday, whichever period is longer; and

D. any other information, including arrest and investigative information from the Minnesota Bureau of Criminal Apprehension, county attorneys, county sheriffs, courts, county agencies, local police, and the national record repository, and criminal records of other states, if the commissioner has reasonable cause to believe that the information is pertinent to disqualification of a subject.

Subp. 3. **Determination of disqualification.** The commissioner shall evaluate the results of the study and any other information available to the commissioner and shall determine whether a subject is disqualified under part 9543.3070.

Subp. 4. **Notice by commissioner to subject.** The commissioner shall notify the subject in writing of the results of the background study. If the study indicates a subject is disqualified, the notice shall state:

A. the reason for disqualification;

B. the procedures for requesting the commissioner to reconsider the disqualification; and

C. the factors to be considered by the commissioner under part 9543.3080 in the decision whether to set aside the disqualification.

Subp. 5. **Notice by commissioner to provider.** The commissioner shall notify the provider in writing of the results of the subject's background study.

A. If a subject is disqualified, the notice shall inform the provider that:

(1) the study indicates the subject is disqualified;

(2) the subject has 30 days from receipt of the notice to request reconsideration of the disqualification and that the commissioner's decision will be issued within 15 working days after receipt of a request; and

(3) the provider may request a variance to part 9543.3040, subpart 3. A variance request must meet the requirements of *Minnesota Statutes*, section 245A.04, subdivision 9, and rules governing the program.

B. The commissioner shall not disclose the nature of the disqualification to the provider unless:

(1) the subject consents to disclosure in writing; or

(2) other law authorizes disclosure to the provider.

Subp. 6. **Record retention.** The commissioner shall maintain records of each study. The commissioner shall make the information in the records available only to the commissioner or the commissioner's designees for background study purposes. When the subject reaches age 23, the commissioner shall destroy juvenile court records obtained pursuant to the study.

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## Proposed Rules

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### 9543.3070 DISQUALIFICATION STANDARDS.

Subpart 1. **General prohibitions.** A subject who has a disqualification under subparts 2 to 5 must not have direct contact with persons served by a program.

Subp. 2. **Disqualifications.** Except as provided in subpart 4, items A to D disqualify an individual from programs serving children or adults.

A. The subject has been convicted of a crime against persons or a crime reasonably related to the provision of services or an anticipatory crime as defined in *Minnesota Statutes*, sections 609.17 and 609.175, including but not limited to:

- (1) homicide, aiding suicide, or arson under *Minnesota Statutes*, sections 609.185 to 609.215, and 609.561 to 609.563;
- (2) crimes against persons and unborn children under *Minnesota Statutes*, sections 609.221 to 609.224, 609.23 to 609.2691, and 609.228;
- (3) sex crimes under *Minnesota Statutes*, sections 609.293, 609.294, 609.321 to 609.324, 609.33, 609.342 to 609.3451, and 609.352;
- (4) crimes against the family under *Minnesota Statutes*, sections 609.355 to 609.365, and 609.377 to 609.378;
- (5) public misconduct under *Minnesota Statutes*, sections 609.746, 609.79, and 609.795;
- (6) obscenity involving children under *Minnesota Statutes*, sections 617.23 to 617.247, and 617.293; and
- (7) prohibited drugs under *Minnesota Statutes*, chapter 152.

B. The subject has admitted to, or has been arrested and is awaiting trial for, or a preponderance of the evidence indicates the individual has committed an act that meets the definition of a crime listed in item A.

C. The subject is identified as the perpetrator in a determination that maltreatment of minors has occurred and a preponderance of evidence indicates:

- (1) an act that meets the definition of maltreatment in *Minnesota Statutes*, section 626.556, subdivision 10e, paragraph (a), occurred;
- (2) the subject committed the maltreatment; and
- (3) the maltreatment was serious or recurring.

D. The subject is identified as the perpetrator in a substantiated report of abuse or neglect of vulnerable adults and a preponderance of evidence indicates:

- (1) an act that meets the definition of abuse or neglect in *Minnesota Statutes*, section 626.557, subdivision 2, occurred;
- (2) the subject committed the abuse or neglect;
- (3) the abuse or neglect was serious or recurring; and
- (4) the subject is not the victim of the abuse or neglect.

Subp. 3. **Terminated parental rights.** A subject who has had parental rights terminated under *Minnesota Statutes*, section 260.221, paragraph (b), is disqualified from programs serving children.

Subp. 4. **Disqualification from programs providing chemical abuse or dependency services to adults.** Items A and B apply to persons providing chemical abuse or dependency services to adults.

A. A subject is disqualified from direct contact with persons served in a Category 1 detoxification program if the subject has a disqualification under subpart 2, items A to D, or subpart 5.

B. A subject affiliated with any other program providing chemical abuse or dependency services to adults must not have had a felony conviction or have been incarcerated as a result of a felony conviction in the last three years.

Subp. 5. **Residential programs.** A subject in a residential program must not have a conviction for, have admitted to, or have been arrested and be awaiting trial for theft and related crimes, including but not limited to crimes defined in *Minnesota Statutes*, sections 609.52 to 609.523, 609.582, and 609.625 to 609.635.

### 9543.3080 RECONSIDERATION OF DISQUALIFICATION.

Subpart 1. **Application for reconsideration.** Within 30 days after receiving notice of disqualification, a subject may request the commissioner in writing to reconsider the disqualification. The subject must submit information showing:

- A. the information the commissioner relied upon is incorrect; or
- B. the subject does not pose a risk of harm to any person served by the program.

Subp. 2. **Extension.** The subject may request additional time, not to exceed 30 days, to obtain the information in subpart 1 upon showing the information cannot be obtained within 30 days.

Subp. 3. **Decision by commissioner.** The commissioner shall set aside the disqualification if the commissioner determines that:

A. the information relied upon in making the determination of disqualification is incorrect; or

B. the subject does not pose a risk of harm to persons served by the program. In making this determination the commissioner shall consider at least:

(1) the nature and severity of the disqualifying event;

(2) the consequences of the disqualifying event;

(3) the number of disqualifying factors or events;

(4) the relation between the disqualification and the health, safety, and rights of persons served by the program, including factors such as:

(a) the age and vulnerability of victims at the time of the incident;

(b) the harm suffered by a victim; and

(c) the similarity between a victim and persons served by the program;

(5) whether the disqualifying event is isolated or similar events have occurred;

(6) documentation of successful completion of training or rehabilitation pertinent to the incident; and

(7) any other information relevant to the reconsideration decision.

Subp. 4. **Notice of commissioner's decision.** Within 15 working days after receipt of a request for reconsideration, the commissioner shall notify the subject and the provider in writing:

A. whether the disqualification has been set aside; or

B. if a time extension has been granted under subpart 2, that the commissioner's decision will be issued within 15 working days after the extension date.

Subp. 5. **Finality of decision.** Except as provided in subpart 6, the commissioner's decision on a reconsideration request is the final administrative agency action and is not subject to review.

Subp. 6. **Employees of public employers.** A subject who is an employee of a public employer as defined by *Minnesota Statutes*, section 179A.03, subdivision 15, may appeal the commissioner's decision not to set aside a disqualification in a contested case proceeding under *Minnesota Statutes*, chapter 14.

#### **9543.3090 APPLICABILITY AND IMPLEMENTATION OF RULES.**

Parts 9543.3000 to 9543.3090 shall be implemented and shall apply to programs according to items A to C.

A. After the effective date of parts 9543.3000 to 9543.3090, applicants for initial licensure of a program must submit all required background study forms at the time of application.

B. Providers of programs licensed on the effective date of parts 9543.3000 to 9543.3090 must submit all required background study forms at the time of license renewal except that subjects who first become affiliated with the program after the effective date must have a background study according to part 9543.3040.

C. Notwithstanding part 9543.3040, subpart 3, a subject affiliated with a program on the effective date who is disqualified as a result of the subject's initial background study may continue in direct contact until the commissioner issues a decision on reconsideration of the disqualification.

#### **Rules as Proposed**

#### **9545.0090 PERSONAL QUALITIES OF FOSTER FAMILY HOME APPLICANTS.**

FFH applicants shall be kind, mature, and responsible people with a genuine liking for children. They shall possess consistent and healthy methods of handling the lifestyle unique to their own families. Evaluation of applicants shall consider cultural differences.

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## Proposed Rules

Reason: Children who must live apart from their own homes are uniquely in need of stable, understanding families. Many children needing placement are emotionally, mentally, or physically handicapped. These children need extra understanding and parenting to cope with their problems.

A. Satisfactory compliance: An FFH license shall not be issued or renewed where any person (except foster children) living in the household has any of the following characteristics:

(1) ~~a conviction for, or admission of, or substantial evidence of an act of assault, or child battering, or child abuse, or child molesting, or child neglect~~ disqualification under part 9543.3070;

(2) chemical dependency, unless the individual(s) identified as chemically dependent has been chemically free for at least 12 months; or

(3) residence of the family's own children in foster care, correctional facility, or residential treatment for emotional disturbance within the previous 12 months if, in the judgment of the agency, the functioning of the family has been impaired;

(4) ~~a conviction for any offense involving moral turpitude within the previous five years, and at the discretion of the agency within the previous ten years;~~

~~(5) felony conviction within the previous five years, and at the discretion of the agency within the previous ten years.~~

B. Satisfactory compliance: In order to protect children in foster care and assure them the maximum opportunities for growth and development, each family caring for children shall be evaluated on the following essential elements:

(1) have established and are comfortable with their own identity to the degree that meeting their own needs does not interfere with their meeting the needs of foster children;

(2) have optimism, a sense of humor, resiliency, and ability to enjoy life;

(3) be in touch with their own feelings, be able to express these feelings, and have a capacity to look at themselves realistically as to the kinds of children they can accept and work with;

(4) have health and vigor to meet the needs of children placed with them;

(5) have meaningful extended family, neighborhood, cultural, and community ties;

(6) have the ability to deal with anger, sorrow, frustration, conflict, and other emotions in a manner which will build positive interpersonal relationships rather than in a way that could be emotionally or physically destructive to other persons;

(7) have the ability to give positive guidance, care, and training to a child according to ~~his~~ the child's stage of growth, special abilities, and limitations;

(8) have the ability to use discipline in a constructive rather than destructive way;

(9) understand, accept, and seek to nurture cultural, spiritual, racial, and affectional ties of the child;

(10) have the ability and flexibility to accept a child in placement who has special needs, treat a foster child as a member of their family, recognizing that a foster child has other family ties;

(11) have the ability to accept the foster child's own family and maintain an understanding relationship with them;

(12) have the ability to work with the agency and other community resources;

(13) have a capacity and willingness to involve themselves in ongoing educational opportunities, as well as other learning experiences;

(14) be able to constructively resolve problems when difficulties arise;

(15) be comfortable in relating to professional treatment personnel of all kinds, including the ability to discuss differences of viewpoint, and to be an advocate for the foster child when indicated; and

(16) have an ability to openly discuss their attitudes about persons with differing life styles and philosophies and a capacity to accept people who are different from themselves.

### 9555.6125 LICENSING STUDY.

[For text of subs 1 to 3, see M.R.]

Subp. 4. **Qualifications.** Operators, caregivers, and household members must meet the qualifications in items A to ~~H~~ G.

A. Operators and caregivers must be adults.

B. Household members and caregivers must be free of reportable communicable disease as named in parts 4605.7000 to 4605.7800. With the exception of caregivers providing less than 30 days of care per year, the household member and caregiver must provide the commissioner with a physician's statement showing the absence of reportable communicable disease and any physical

condition that would prevent the caregiver from being able to provide foster care to a resident. The physician's report must be based on an examination of the individual within the 12 months before application for licensure. Caregivers shall provide the commissioner with a physician's report at least once every five years after initial licensure.

C. Operators, caregivers, and household members must agree to disclose the arrest, conviction, and criminal history information specified in subpart 3.

D. Operators, caregivers, and household members must not have a ~~conviction of, adjudication of delinquency for, have admitted to, or there be substantial evidence as determined by the local agency or department indicating abuse or neglect as those terms are defined in Minnesota Statutes, sections 626.556 and 626.557 or assault as defined in Minnesota Statutes, sections 609.221 to 609.235, 609.322 to 609.342, 609.343, 609.344, or 609.345~~ disqualification under part 9543.3070.

E. Operators, caregivers, and household members must not be awaiting trial for or have a conviction of, adjudication of delinquency for, or admission of any crime listed in *Minnesota Statutes*, sections 152.09, 152.096, 152.097, 609.185 to 609.345, 609.365, 609.377, 609.378, 609.52, 609.521, 609.525, 609.53, 609.54, 609.551, 609.561 to 609.563, 609.582, 609.59, 609.625, 609.63, 609.687, 609.71, 609.713, 609.821, 617.23, 617.246, other than those listed in item D; or the same or similar crime listed in the laws of another state or of the United States or of another country.

F. Caregivers must not have had parental rights terminated under *Minnesota Statutes*, section 260.221, paragraph (b), within the past five years.

G. Operators and caregivers must not have a diagnosis of mental retardation or a related condition and be receiving services under parts 9525.0015 to 9525.0145.

~~H. F.~~ Caregivers and household members must not have a mental illness or condition as diagnosed by a psychiatrist or licensed psychologist that has documented behaviors that the commissioner determines would jeopardize the health, rights, or safety of residents. Past history of a mental illness or condition may be considered. "Mental illness" means an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the clinical manual of the International Classification of Diseases (ICD-9-CM), Ninth Revision (1980), code range 290.0 to 302.99 or 306.0 to 316.0 or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-III), Third Edition (1980), Axes I, II, or III, and that seriously limits a person's functional capacities relative to primary aspects of daily living such as personal relations, living arrangements, work, and recreation. These publications are incorporated by reference and are not subject to frequent change. They are available in the State Law Library, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155.

~~I. G.~~ Caregivers and household members must not abuse prescription drugs or use controlled substances as named in *Minnesota Statutes*, chapter 152, or alcohol, to the extent that the use or abuse has or may have a negative effect on the health, rights, or safety of residents.

Subp. 5. **Evaluation for cause.** The commissioner may require, before licensure or at any time during the licensed term of the adult foster home, a physical, mental health, chemical dependency, or criminal history evaluation of the operator, caregiver, or household member if the commissioner has reasonable cause to believe that any of the qualifications or requirements in subpart 4, items A to F G have not been met or that the operator or any caregiver cannot care for a resident. Evaluations must be conducted by a professional qualified by license, certification, education, or training to perform the specific evaluation.

[For text of subs 6 to 13, see M.R.]

#### 9555.9620 LICENSING PROCESS.

[For text of subs 1 to 6, see M.R.]

Subp. 7. **License denial or suspension.** The commissioner shall not issue a license or shall suspend a license when ~~one or any~~ combination of conditions described in items A and B applies.

~~A.~~ The applicant or operator or a staff member employed by the applicant or operator:

(1) ~~refuses to provide the completed form required in subpart 3; or~~

(2) ~~has been convicted of a crime or has admitted to an act or there are reasonable grounds to believe has committed an act relating to the abuse or neglect of vulnerable adults as defined in Minnesota Statutes, section 626.557, subdivision 2, clauses~~

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## Proposed Rules

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(d) and (e), and subdivision 3, and does not show evidence of sufficient rehabilitation and present fitness to care for vulnerable adults. The factors set forth in *Minnesota Statutes*, section 364.03, subdivisions 2 and 3, shall be considered in determining whether the act or conviction relates to the abuse or neglect of vulnerable adults and whether the person has shown evidence of sufficient rehabilitation and fitness; or

(3) has been convicted of a crime which directly relates to the occupation of providing care to vulnerable adults as defined in *Minnesota Statutes*, section 626.557, and does not show evidence of sufficient rehabilitation and present fitness to care for vulnerable adults. The factors set forth in *Minnesota Statutes*, section 364.03, subdivisions 2 and 3, shall be considered in determining whether the conviction relates to the occupation of providing care to vulnerable adults and whether the person has shown evidence of sufficient rehabilitation and fitness.

~~B-~~ the center does not comply with the building, fire, and health codes specified in parts 9555.9600 to 9555.9730 and the deficiencies cited threaten the health, safety, or rights of participants.

[For text of subs 8 to 13, see M.R.]

**REPEALER.** *Minnesota Rules*, parts 9502.0335, subpart 7; and 9525.1520, subpart 5, are repealed.

## Department of Public Safety

### Proposed Permanent Rules Relating to Bureau of Criminal Apprehension Training for Intoxication

#### Bureau of Criminal Apprehension

#### Notice of Intent to Adopt a Rule Without a Public Hearing

**NOTICE IS HEREBY GIVEN** that the State Department of Public Safety intends to amend the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, sections 14.06 and 299A.01 subdivision 6, which authorizes the commissioner of public safety to promulgate rules to implement *Minnesota Statutes* section 169.123, subdivision 3.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Katherine Burke Moore  
Department of Public Safety  
211 Transportation Building  
St. Paul, MN 55155  
297-5755

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

**A STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Katherine Burke Moore at the address and telephone number listed above.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Katherine Burke Moore.

Paul J. Tschida, Commissioner  
Department of Public Safety

**Rules as Proposed****7502.0600 PERSONS WHO MAY INTERPRET BLOOD OR URINE TESTS.**

~~Any~~ A person who meets the educational and occupational standards ~~set forth~~ in items A and B may interpret blood or urine tests:

A. educational qualifications: a bachelor's or higher degree in chemistry, biochemistry, biology, biological sciences, pharmacology, criminalistics, forensic science, toxicology, or medical technology;

B. occupational qualifications: ~~full-time~~ employment or self-employment as a criminalist, crime laboratory analyst, forensic scientist, toxicologist, pathologist, chemist, biochemist, medical technologist, medical laboratory technician, or medical laboratory assistant.

**Board of Water and Soil Resources****Proposed Permanent Rules Relating to a Local Water Resources Protection and Management Program****Notice of Intent to Adopt a Rule Without a Public Hearing**

**NOTICE IS HEREBY GIVEN** that the State Board of Water and Soil Resources intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, sections 103B.3361 to 103B.3369.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Greg Larson, Head, Water and Land Management Section  
Board of Water and Soil Resources      St. Paul, Mn. 55107  
155 S. Wabasha Street Suite 104      (612) 296-3767

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

**A STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Greg Larson upon request.

The Statement of Need and Reasonableness also indicates that since this is a voluntary program involving grants to counties, this rule will not have a negative impact on small business.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Greg Larson.

Dated: 13 August 1990

James R. Birkholz  
Executive Director

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## Proposed Rules

### Fiscal Impact of the Rule of the State Board of Water and Soil Resources Governing Grants to Counties for Local Water Resources Protection and Management

As required by *Minnesota Statutes*, section 14.11, this statement advises local public bodies of the fiscal impact of the adoption of the proposed rule relating to a local water resources protection and management program. Under this proposed rule, an eligible county may apply for grants to develop and implement a comprehensive local water plan. Plan development grants cannot exceed a maximum of \$15,300 for a plan under *Minnesota Statutes*, section 110B.04, or \$15,600 for a plan under *Minnesota Statutes*, section 473.8785. Plan development grants must be matched in a one-to-one ratio with a local share. The rule defines local share as "the contribution of a local unit of government to the eligible cost of a program including the value of cash expenditures, private contributions, and in-kind contributions of labor, equipment, material, and real property used for and expended on eligible program activities. Up to 50 percent of the local share may consist of federal funds. State funds may not be used as local share." The board estimates counties will provide \$46,200 of local share during 1991. This does not include local share provided by counties who commenced planning prior to the adoption of the proposed rule.

Plan implementation grants consist of base grants and challenge grants. Base grants are noncompetitive and are available to any county that has approved and locally adopted comprehensive local water plans covering more than 50 percent of the county land area and that implements a local water planning levy. Individual base grants and the local water planning levy is determined by a formula under *Minnesota Statutes*, section 103B.3369 utilizing equalized taxable net tax capacity and local plan implementation cost. An individual county is not required to match a base grant. The total of county water planning levies on a statewide basis constitutes the match to base grants. Specific base grants and the amount of the local water planning levy for 1991 have been provided to county auditors and local water planning officials under separate cover. Challenge grants are competitive and may be available to any county that has approved and locally adopted comprehensive local water plans covering more than 50 percent of the county land area and that implements a local water planning levy. Challenge grants must be matched in a one-to-one ratio with a local share.

The board has \$2,370,000 available in fiscal year 1991 for plan development and implementation grants. An amount of \$46,200 is estimated for plan development grants to three counties. An amount of \$1,600,000 is estimated for base grants to an additional 52 counties. The balance, \$723,800, is estimated for challenge grants. The board further estimates that counties will provide \$723,800 of local share to match challenge grants. Considering plan development and challenge grants, county matching funds for fiscal year 1991 total \$777,000. Until legislative funding and the extent of plan implementation is known, estimates for fiscal year 1992 cannot be made.

#### Rules as Proposed (all new material)

##### 8405.0100 PURPOSE.

*Minnesota Statutes*, sections 103B.3361 to 103B.3369, authorize the board to make grants to counties for local government activities that protect or manage water and related land resources and to adopt rules.

This chapter provides for the administration of a state local water resources protection and management grant program. Parts 8405.0100 to 8405.0230 implement this program by establishing the substantive criteria and procedural conditions under which the board may award state grants for the development and implementation of a comprehensive local water plan.

##### 8405.0110 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part and in *Minnesota Statutes*, section 103B.3363, apply to parts 8405.0100 to 8405.0230. If a definition in this part conflicts with a definition in *Minnesota Statutes*, chapter 110B, 112, or 473, or rules adopted under one of those chapters, the definition in this part governs.

Subp. 2. **Board.** "Board" means the Board of Water and Soil Resources.

Subp. 3. **Comprehensive local water plan; plan.** "Comprehensive local water plan" or "plan" means a county water plan authorized under *Minnesota Statutes*, section 110B.04, a watershed management plan required under *Minnesota Statutes*, section 473.878, a watershed district overall plan required under *Minnesota Statutes*, section 112.46, or a county groundwater plan authorized under *Minnesota Statutes*, section 473.8785.

Subp. 4. **Local share.** "Local share" means the contribution of a local unit of government to the eligible cost of a program including the value of cash expenditures, private contributions, and in-kind contributions of labor, equipment, material, and real property used for and expended on eligible program activities. Up to 50 percent of the local share may consist of federal funds. State funds may not be used as local share.

Subp. 5. **Local unit of government.** "Local unit of government" means a statutory or home rule charter city, town, county, soil and water conservation district, watershed district, organization formed for the joint exercise of powers under *Minnesota Statutes*, section 471.59, local health board, or other special purpose district or authority with local jurisdiction in water and related land resources management.

Subp. 6. **Local water planning levy.** "Local water planning levy" means a property tax levy under *Minnesota Statutes*, section

275.50, subdivision 5, paragraph (2), and implementing *Minnesota Statutes*, section 103B.3369, subdivision 5, clause (2), for the purpose of implementing a comprehensive local water plan.

Subp. 7. **Official controls.** "Official controls" means ordinances and rules that control the physical development within the jurisdiction of a local unit of government, protect public health and safety, or implement the general objectives of the local unit of government.

Subp. 8. **Program.** "Program" means a water-related program.

Subp. 9. **Related land resources.** "Related land resources" means land affected by present or projected management practices that have significant effects on the quantity and quality, or use of groundwater or surface water.

#### **8405.0120 AVAILABLE ASSISTANCE.**

Subpart 1. **Grants.** The board may award grants to counties to develop plans authorized under *Minnesota Statutes*, section 110B.04 or 473.8785, or implement water resource protection and management programs identified as priorities in a comprehensive local water plan. Grants may be used to employ persons and to obtain and use information necessary to develop a plan under *Minnesota Statutes*, section 110B.04 or 473.8785, that did not receive funding under Laws of Minnesota 1987, chapter 404, section 30, subdivision 5, paragraph (a), or to implement a comprehensive local water plan. Plan development grants must not exceed a maximum of \$15,300 for a plan under *Minnesota Statutes*, section 110B.04, or \$15,600 for a plan under *Minnesota Statutes*, section 473.8785.

Plan implementation grants consist of base grants and challenge grants. Base grants are noncompetitive and are available to any county that has approved and locally adopted comprehensive local water plans covering more than 50 percent of the county land area and that implements a local water planning levy. The purpose of base grants is to encourage plan maintenance and implementation with an emphasis on new or expanded programs. Eligible activities include supporting water plan coordination and enforcement of official controls. Base grants may not exceed the amount specified in *Minnesota Statutes*, section 103B.3369, subdivision 5, clause (2).

Challenge grants are competitive and may be available to any county that has approved and locally adopted comprehensive local water plans covering more than 50 percent of the county land area and that implements a local water planning levy. The purpose of challenge grants is to accelerate implementation of priority actions contained in approved comprehensive local water plans. Eligible activities include establishment of monitoring programs, development of official controls, assessments of resources, and development of geographic information systems. A county may submit more than one challenge grant application.

Subp. 2. **Local share.** Plan development and challenge grants must be matched in a one-to-one ratio with a local share.

Subp. 3. **Priority.** Grants must be awarded, within the limits of available appropriations, to those applicants having the highest priority.

Subp. 4. **Technical assistance.** The board may provide technical assistance to counties that are considering application in order to ensure timely, accurate, and comprehensive applications. The board shall provide technical assistance, within the limits of available resources, to counties that receive grants, to assist in developing or implementing a comprehensive local water plan.

#### **8405.0130 ELIGIBILITY CRITERIA.**

Subpart 1. **Eligible applicants.** Only counties are eligible to apply for grants. A county shall coordinate and submit applications on behalf of other local units of government within its jurisdiction.

Subp. 2. **Eligible costs.** Plan costs are eligible for state grants if the expenditures are reasonable and necessary for developing or implementing a comprehensive local water plan as described in part 8405.0120, subpart 1.

Subp. 3. **Ineligible costs.** Ineligible costs include those not related to the activities in subpart 2. In addition, the following costs are ineligible whether or not they relate to the activities in subpart 2:

- A. expenditures or in-kind contributions incurred prior to the effective date of the grant agreement; and
- B. activities that violate local, state, or federal statutes, rules, or regulations.

#### **8405.0140 NOTICE OF GRANT AVAILABILITY.**

Subpart 1. **Notice.** If the board determines that funds are available to award grants, the board shall publish a notice in the *State Register* announcing that applications will be accepted. The notice must include the amount of available funding and contain deadlines for submittal of applications for each grant, which must be no less than 60 calendar days from the date of publication.

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Subp. 2. **Notification.** The board shall notify all counties that grant funds are available and the deadline for applications. Any other local unit of government that wishes to be notified shall contact the board by writing to the executive director. When the board publishes notice in the State Register, the board shall mail notice of the grant application period to those local units of government who have requested to be notified.

Subp. 3. **Grant application periods.** The board may establish a grant application period at any time, but there must be at least one application period for each grant each fiscal year if funds are available.

### 8405.0150 GRANT APPLICATION.

Subpart 1. **General requirements.** A grant application must be submitted by a county. A county shall coordinate and submit applications on behalf of other local units of government within its jurisdiction. A completed grant application must be received in the board office in Saint Paul by the published deadline, in a format provided by the board, and with the information required by this part.

Subp. 2. **Plan development grant.** A county submitting an application for a plan development grant must submit the following information:

- A. a resolution committing the county to develop a local water plan according to chapter 9300 and *Minnesota Statutes*, chapter 110B, or *Minnesota Statutes*, section 473.8785;
- B. a resolution by the county authorizing the matching funds and the signing of the grant agreement and other related documents;
- C. a budget of expenses associated with developing a local water plan; and
- D. a description and explanation of the responsibilities proposed to be contracted with other local units of government, if applicable.

Subp. 3. **Plan implementation base grant.** A county submitting an application for a plan implementation base grant shall submit the following information:

- A. a resolution by the county authorizing the signing of the grant agreement and other related documents;
- B. a detailed work plan and schedule for program implementation during the grant period;
- C. a detailed budget for the grant period;
- D. a statement describing the relationship of the grant request to priority implementation items in the comprehensive local water plan;
- E. a statement describing how cooperation will be secured with adjacent counties and water management organizations, if applicable; and
- F. a description and explanation of the responsibilities proposed to be contracted with other local units of government, if applicable.

Subp. 4. **Plan implementation challenge grant.** A county submitting an application for a plan implementation challenge grant shall submit the following information:

- A. a resolution by the county authorizing the matching funds and the signing of the grant agreement and other related documents;
- B. an executive summary of the contents of the application;
- C. a detailed work plan and schedule for program implementation during the grant period;
- D. a detailed budget for the grant period including the identification of the amount requested in the grant;
- E. a list identifying the amount, type, and source of the local share;
- F. a statement describing the relationship of the grant request to priority implementation items in the comprehensive local water plan;
- G. a statement describing how cooperation will be secured with adjacent counties and water management organizations, if applicable;
- H. a statement describing local support and interagency coordination;
- I. a description of how the challenge grant complements the base grant;
- J. a statement indicating if partial funding of the application is acceptable. If partial funding is acceptable, project components must be listed in order of funding priority with a corresponding budget; and
- K. an explanation of the responsibilities proposed to be contracted with other local units of government, if applicable.

Subp. 5. **Sequence of implementation grants.** Before a county can submit an application for a plan implementation grant, the county must have:

- A. approved and locally adopted comprehensive local water plans covering more than 50 percent of the county land area; and
- B. implemented a local water planning levy.

Although base and challenge grants may be applied for at the same time, separate applications must be made.

#### **8405.0160 DENIAL OF GRANT APPLICATIONS.**

Subpart 1. **Grounds.** An application for a plan development grant or a plan implementation grant must be denied by the board for the following reasons:

- A. ineligible applicant;
- B. proposed expenditures are ineligible;
- C. request is not consistent with priorities described in the applicant's comprehensive local water plan;
- D. late submittal; or
- E. inadequate or incomplete application.

Subp. 2. **Procedure.** The board shall review each grant application within 14 calendar days after the deadline for application submittal. The board shall notify each denied grant applicant of the denial of its application and the reasons for the denial within 14 calendar days after the determination.

Subp. 3. **Effect of denial.** A grant applicant whose application is denied may reapply in a subsequent application period in order to be reconsidered for a grant.

#### **8405.0170 ALLOCATION OF FUNDING.**

Subpart 1. **Overall grant fund allocation.** After assessing the number and specific type of applications, and within 30 calendar days of the close of an application period, the board shall determine the amount of funding to be made available for each grant. In deciding how much money to make available for new grant awards, the board shall give priority to plan development and base grants and consider the necessity to have additional money available to complete previously approved grants.

If the money intended for a specific type of grant is not awarded during a grant period, the board may reallocate the funds to one of the other type of grants or carry the money forward to a subsequent grant period.

#### **8405.0180 RANKING OF APPLICATIONS.**

Subpart 1. **Process of ranking.** After completion of the review by the board of the grant applications for eligibility, and determination of available funds for the types of grants, the board shall proceed to:

- A. fund all eligible plan development and base grant applications as provided in part 8405.0120, subpart 1; and
- B. rank in order of priority all eligible challenge grant applications.

Each eligible challenge grant application must be awarded the number of priority points it is entitled to under subparts 3 and 4. All applications must be given a ranking depending on the number of points awarded. The applications with the highest ranking must be given the highest priority.

Subp. 2. **Review team.** Prior to ranking challenge grant applications, the board shall establish an advisory review team to evaluate the applications. The review team, chaired by a member or representative appointed by the board, consists of a representative of each of the following agencies or organizations: Association of Metropolitan Municipalities; Association of Minnesota Counties; League of Minnesota Cities; Metropolitan Council; Metropolitan InterCounty Association; Metropolitan Water Management Organizations; Minnesota Association of Conservation District Employees; Minnesota Association of County Planning and Zoning Administrators; Minnesota Association of Soil and Water Conservation Districts; Minnesota Association of Townships; Minnesota Association of Watershed Districts; Minnesota Departments of Agriculture, Health, and Natural Resources; Minnesota Extension Service; Minnesota Geological Survey; Minnesota Pollution Control Agency; State Planning Agency; and others as the board may determine.

Subp. 3. **Priority points for challenge grant applications.** The following criteria must be used to determine the number of priority points to be awarded in the evaluation of each challenge grant application. To expedite the review process, the board is responsible for providing background information and summaries of the applications to the review team. The review team, acting as a committee,

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shall award each application between zero and ten points under the following criteria, depending on how well the application satisfies each criterion. Ten points is the highest point value. The number of points under each criterion must be added together to determine the application's total point value. This total number must be used to determine the application's overall ranking and priority. The criteria are as follows:

- A. the extent to which the application demonstrates participation of several local units of government, including multicounty efforts;
- B. the extent to which the application expresses long-term commitment to effective water protection and management;
- C. the extent to which the applicant would use local programs and methods to protect and manage water and related land resources;
- D. the extent to which the application complements efforts of federal, state, and local units of government; and
- E. the extent to which the application supports efforts of local units of government to adopt, administer, and enforce official controls to protect and manage water and related land resources.

Subp. 4. **Other considerations.** In assigning points, the review team must consider the regional variations that exist in program needs and priorities.

### 8405.0190 SELECTION OF GRANTEES.

Subpart 1. **Ranking.** The review team shall complete its ranking of all applications for challenge grants for which an eligible grant application has been submitted and forward the recommendation to the board within 90 calendar days of the close of the application period.

Subp. 2. **Projects funded.** The board shall select those applications that will be awarded grant funds by awarding grants to the highest priority challenge grant applications within the limits of available funds established in part 8405.0170.

Subp. 3. **Board decision.** All decisions of the board in ranking applications and awarding grants must be made at a regular or special board meeting.

Subp. 4. **Timing.** The board shall make its selection of grantees within 120 calendar days of the close of the application period. The board shall notify all applicants of the status of their application within 14 calendar days after the selection of grantees.

Subp. 5. **Reapplication.** A grant applicant whose application is not awarded grant funds may reapply in a subsequent application period to be reconsidered for a grant.

### 8405.0200 GRANT CONDITIONS.

Subpart 1. **Amount.** Except as provided in part 8405.0150, subpart 4, item J, a grant that is made must be for the amount requested by the applicant. The maximum grant must be according to part 8405.0120, subpart 1.

Subp. 2. **Agency review.** Grants provided to develop or implement programs must be reviewed by the state agency having authority for the programs to assure compliance with minimum state standards before a grant agreement is executed by the board.

Subp. 3. **Performance criteria.** In addition to items required by this part, performance criteria for grant administration must include plan information requirements contained in the approved application of the county as described in part 8405.0150, subparts 2, 3, and 4.

Subp. 4. **Grant period.** The grant period for a plan development grant must be two years. The grant period for an implementation base grant must not exceed two years. The grant period for an implementation challenge grant must be two years and may be extended an additional year with prior board approval.

Subp. 5. **Grant agreement.** The county must enter into a grant agreement with the board before a grant will be awarded. The grant agreement must include the provisions established in part 8405.0210.

Subp. 6. **Records.** The county, or delegated local unit of government, shall maintain all records relating to the receipt and expenditure of grant funds for six years from the termination of the grant agreement.

Subp. 7. **Audit.** The county, or delegated local unit of government, must agree that the books, records, documents, and accounting procedures and practices of the county relevant to this program may be examined at any time by the board or board's designee. The county or delegated local unit of government implementing a grant shall provide for an audit that meets the standards of the Office of State Auditor. The audit must cover the duration of a grant and be performed within one year after the end of a grant period or when routinely audited, whichever occurs first. Copies of the audit must be provided to the county and the board.

Subp. 8. **Annual progress report.** The county, or delegated local unit of government, shall submit an annual progress report to the board by January 31st of each year the grant is in effect. The report must include the following information:

A. a discussion of progress of the work described in the approved application, and difficulties encountered meeting the schedule during the year;

B. a discussion of the program results appropriate to the work conducted during the year; and

C. a report of expenditures in the year and those anticipated during the upcoming year.

Subp. 9. **Eligible costs.** Grant funds may not be used to reimburse the county, or delegated local unit of government, for costs incurred before or after the end of the grant agreement period.

#### **8405.0210 GRANT AGREEMENT.**

Subpart 1. **Contents.** The board and the county shall enter into a grant agreement. The grant agreement must:

A. establish the term and conditions of the grant;

B. provide that the county may contract with others, including appropriate local units of government under the terms and conditions specified by the county, to complete the work specified in the grant agreement;

C. provide that the cost overruns are the sole responsibility of the county;

D. require that a county is responsible for ensuring that state funds are properly expended even if the work specified in the grant agreement is performed by a local unit of government acting on behalf of the county;

E. require that the county submit an annual progress report; and

F. incorporate terms and conditions required by federal or state statutes, rules, or regulations.

Subp. 2. **Amendments.** A grant agreement may be amended upon agreement of the board and the county.

Subp. 3. **Agreement period.** A grant agreement must be for a duration specified in part 8405.0200, subpart 4.

#### **8405.0220 GRANT PAYMENTS.**

Subpart 1. **Payment.** Payment of the grant amount must be made in one installment by the board promptly after the effective date of the grant agreement.

Subp. 2. **Unencumbered funds.** Any grant funds remaining unspent or becoming unobligated after the end of the grant agreement period must be returned to the board within two months of that date.

#### **8405.0230 GRANT TERMINATION.**

Subpart 1. **Board action.** The board may cancel a grant agreement for just cause. "Just cause" means that the county or delegated local unit of government is not disbursing grant funds in accordance with established board and state procedures or has otherwise breached a term of the grant agreement. The county must be given 14 calendar days' prior written notice of cancellation. The county has until the date of cancellation to demonstrate why the grant agreement should not be canceled. If it is determined by the board that the county's default was beyond its control or it was not otherwise in default, the grant agreement must not be canceled. The county may cancel this grant agreement with or without cause. In the event of cancellation by the board or county, the county is entitled to payment, determined on a pro rata basis, for work satisfactorily performed and the remaining grant funds must be promptly returned to the board.

Subp. 2. **Agency action.** At the request of any state commissioner, the board shall revoke that portion of a grant used to support a program not in compliance with rules of that agency.

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## Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. §14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. §14.33 and upon the approval of the Revisor of Statutes as specified in §14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under §14.18.

## Department of Human Services

### Adopted Permanent Rules Relating to State Financial Participation in County Welfare Administration Cost

The rule proposed and published at *State Register*, Volume 14, Number 45, pages 2579-2580, May 7, 1990 (14 SR 2579) is adopted as proposed.

## Commissioners' Orders

### Department of Natural Resources

#### Commissioner's Order No. 2385: Regulations for the Taking of Deer During 1990

PURSUANT TO AUTHORITY vested in me by *Minnesota Statutes* §§ 97B.301-97B.325 and other applicable law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following regulations for the taking of deer during 1990. All dates and time periods in this order are inclusive.

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#### Section 1. DEFINITIONS.

(a) **Legal Firearms.** Firearms described as legal for the taking of big game by *Minnesota Statutes* § 97B.031, including subd. 1(c) permitting 10 mm cartridges at least 0.95 inches long, may be used for taking deer within the "all legal firearms" zone described in Sec. 10(d). Within the shotgun zone as described in Sec. 10(c) during the regular firearms season, only legal shotguns (including those with rifled barrels) loaded with single-slug shotgun shells and legal muzzleloading long guns may be used for taking deer. Within the shotgun zone during the special muzzleloader season, only legal muzzleloading long guns may be used for taking deer. In the

shotgun zone, disabled persons incapable of using a gun fired from the shoulder and possessing a physician's written statement verifying this condition may use legal handguns for taking deer during the regular firearms season and legal muzzleloading handguns for taking deer during the special muzzleloader season. During the special muzzleloader season, only legal muzzleloaders with metallic open or peep type sights may be used for taking deer.

**(b) Legal Bow and Arrow.** Bow must have a pull of no less than 40 pounds at or before full draw. The bow may not be drawn, held or released by mechanical means, except that a person may use a mechanical device attached to the bowstring if the person's own strength draws, holds, and releases the bowstring. Persons unable to hunt with a legal bow and arrow because of a permanent disability, verified in writing by a licensed physician, may be issued a permit to use a legal crossbow as defined by *Minnesota Statutes* § 97B.106.

**(c) Legal Buck.** A legal buck is any deer having at least one antler not less than three inches in length.

**(d) Antlerless Deer.** Antlerless deer are all deer including fawns, other than legal bucks.

**(e) Antlerless Permit Area.** An area of the state consisting of one or more deer registration blocks and defined in Sec. 9 wherein taking antlerless deer is authorized for a quota of hunters who are issued permits.

**(f) November Firearms Season.** The November firearms season is the statewide deer season beginning November 3, 1990, as described in Sec. 3(a) through 3(d) of this order.

**(g) Muzzleloader Season.** The muzzleloader season is the deer season from November 24 to December 9, 1990, when deer may be taken by legal muzzleloaders in specified areas as described in Secs. 3(f) and 5(a) of this order.

## **Sec. 2. BOW AND ARROW SEASON REGULATIONS.**

**(a) Antlerless deer and legal bucks** may be taken statewide from September 15 to November 30, 1990, from one-half hour before sunrise to sunset each day with the following provisions:

(1) Except that the bow and arrow deer season in Registration Blocks 115 through 118, 127, 130, and 194 shall close on November 18, 1990.

(2) Except for bonus licenses or as otherwise specifically authorized, only legal bucks may be taken during the November firearms season within a zone when there is an open firearms deer season therein.

**(b) Antlerless deer and legal bucks** may be taken by legal bow and arrow in the Northern Minnesota December Archery Zone as described in Sec. 10(a) from December 1 to December 9, 1990, except as listed in (a)(1) above, and in the Southeast December Archery Zone as described in Sec. 10(b) from December 1 to December 31, 1990, from one-half hour before sunrise to sunset each day.

**(c) Bow and arrow areas** open by special permit.

**(1) Crow-Hassan Park Reserve** in Hennepin County is open to either sex deer hunting by bow and arrow from October 27 to October 28, and November 15 and 16, 1990. One hundred forty (140) permits will be issued. Metro Area Bonus bow licenses will be valid for taking antlerless deer during this hunt. Applications must be addressed to Hennepin Parks Bow Hunt, 3800 County Road 24, Maple Plain, Minnesota 55359.

**(2) Murphy-Hanrehan Park Reserve** and Cleary Lake Regional Park in Scott County are open to either sex deer hunting by bow and arrow from November 9 to November 11. Two hundred (200) permits will be issued for Murphy-Hanrehan and fifty (50) permits will be issued for Cleary Lake. Hunters must meet the red/orange clothing requirement. Hunters must specify either Murphy-Hanrehan or Cleary Lake on their application. Metro Area Bonus bow licenses will be valid for taking antlerless deer during this hunt. Applications must be addressed to Hennepin Parks Bow Hunt, 3800 County Road 24, Maple Plain, Minnesota 55359.

**(3) Brainerd-Crow Wing County Airport** in Crow Wing County is open to either sex deer bow hunting from September 15 to November 2. Fifty (50) permits will be issued. Applications must be addressed to Airport Director, 2375 Airport Road NE, Brainerd, Minnesota 56401.

**(4) Lake Bronson State Park** in Kittson County is open to either sex deer bow hunting from November 17 to November 26. Forty (40) permits will be issued. Applications must be addressed to Lake Bronson State Park Bow Hunt, Box 9, Lake Bronson, Minnesota 56734.

**(d) Special bow hunt permit application procedure:**

(1) Hunters must send a stamped, self-addressed business envelope to the headquarters of the appropriate special bow hunt

**KEY: PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

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unit with a request for the application form and instructions.

(2) Up to four persons may apply as a party by mailing all applications in one envelope. Either the entire party will be selected by the drawing or none will be selected.

(3) Incomplete or improperly completed applications will be rejected.

(4) The application deadline for special hunts in this section is September 6, 1990.

(5) Hunters may not apply to more than one of the three Hennepin County Parks hunts (Crow-Hassan Park Reserve, Murphy-Hanrehan Park Reserve, and Cleary Lake Regional Park).

### Sec. 3. FIREARMS SEASON REGULATIONS.

Every firearms deer hunter must select one of the seven choices from the zone and date options contained in this section. This choice will be indicated by a hole punched in the license at the time of purchase. No person is permitted to hunt deer by firearms except within the limits of the choice indicated by the punched hole.

(a) **Zone 1** (as described in Sec. 8(a)). Legal bucks may be taken from November 3 to November 18, 1990, from one-half hour before sunrise to sunset each day. Antlerless deer may be taken only by permit throughout this season, and only within the permit area specified on each hunter's permit.

(b) **Zone 2** (as described in Sec. 8(b)). Legal bucks may be taken from November 3 to November 11, 1990, from one-half hour before sunrise to sunset each day. Antlerless deer may be taken only by permit throughout this season and only within the permit area specified on each hunter's permit.

(c) **Zone 3** (as described in Sec. 8(c)). Hunters must select either the early or the late season.

(1) **Early Season.** Legal bucks may be taken from November 3 to November 11, 1990, from one-half hour before sunrise to sunset each day.

(2) **Late Season.** Legal bucks and antlerless deer may be taken from November 17 to November 23, 1990, from one-half hour before sunrise to sunset each day. Antlerless deer may be taken only by permit and only within the permit area specified on each hunter's permit.

(d) **Zone 4** (as described in Sec. 8(d)). Hunters must select either the early or the late season.

(1) **Early Season.** Legal bucks and antlerless deer may be taken on November 3 and November 4, 1990, from one-half hour before sunrise to sunset each day. Antlerless deer may be taken only by permit and only within the permit area specified on each hunter's permit.

(2) **Late Season.** Legal bucks and antlerless deer may be taken from November 10 to November 13, 1990, from one-half hour before sunrise to sunset each day. Antlerless deer may be taken only by permit and only within the permit area specified on each hunter's permit.

(e) **Additional areas are open** to a limited number of hunters during the November firearms season as described in Sec. 5(b).

(f) **Muzzleloader Season.** Antlerless deer and legal bucks may be taken by legal muzzleloader from November 24 to December 9, 1990, from one-half hour before sunrise to sunset each day, in the areas described below. Except for the Richard J. Dorer Memorial Hardwood Forest, all land within the statutory boundaries of the state forests listed below is open for muzzleloader hunting. Persons selecting this season may not hunt during the November firearms season. Persons selecting this season must have the Special Muzzleloader Season block punched out on their licenses. In addition to the areas listed below, additional areas are open to a limited number of hunters as described in Sec. 5(a).

(1) **Carlos Avery Wildlife Management Area (WMA)** and adjacent lands in Anoka and Chisago Counties; within the boundary described as follows:

Beginning at the junction of Pine Street and County State Aid Highway (CSAH) 23, Anoka County; thence north on CSAH 23 to CSAH 19, Anoka County; thence north on CSAH 19 to CSAH 18, Anoka County; thence east on CSAH 18 to County Road 62, Anoka County; thence northeasterly on County Road 62 to County Road 87, Chisago County; thence north on County Road 87 to CSAH 22, Chisago County; thence east on CSAH 22 to U.S. Highway 61; thence south on U.S. Highway 61 to State Trunk Highway (STH) 98; thence east and northeasterly on STH 98 to U.S. Highway 8; thence north on U.S. Highway 8 to County Road 77, Chisago County; thence north on County Road 77 to CSAH 14, Chisago County; thence north and west on CSAH 14 to CSAH 18, Chisago County; thence south and southwesterly on CSAH 18 to CSAH 30, Chisago County; thence south on CSAH 30 to CSAH 19, Chisago County; thence west on CSAH 19 to CSAH 36, Anoka County; thence west on CSAH 36 to County Road 75, Anoka County; thence south on County Road 75 to CSAH 22, Anoka County; thence west and south on CSAH 22 to CSAH 17, Anoka County; thence south on CSAH 17 to the southern boundary of Ham Lake Township, Anoka County; thence east along the southern boundary of Ham Lake Township and the southern boundary of Columbus Township, Anoka County, to Pine Street; thence east on Pine Street to the point of beginning.

- (2) **Chengwatana State Forest** in Chisago and Pine Counties;
- (3) **Cloquet Valley State Forest** in St. Louis County;
- (4) **Dalbo WMA** in Isanti County;
- (5) **Elm Lake and Eckvoll WMA's** in Marshall County;
- (6) **George Washington State Forest** in Itasca County;
- (7) **Gores Pool WMA** in Dakota and Goodhue Counties;
- (8) **Kabetogama State Forest** in St. Louis County;
- (9) **Kunkel WMA** in Mille Lacs County;
- (10) **Land-O-Lakes State Forest** in Cass County, north of County State Aid Highway 58, Cass County and east of State Trunk Highway 6 only;
- (11) **Lost River State Forest** in Roseau County;
- (12) **McCarthy Lake WMA** in Wabasha County;
- (13) **Meadowbrook WMA** in Cass County;
- (14) **Mille Lacs WMA** in Kanabec and Mille Lacs Counties;
- (15) **Nemadji State Forest** in Carlton and Pine Counties;
- (16) **Paul Bunyan Game Refuge** in Hubbard County;
- (17) **Red Lake WMA** and **Beltrami Island State Forest** in Beltrami, Lake of the Woods, and Roseau Counties;
- (18) **Richard Dorer Memorial Hardwood Forest** tracts posted as State Forest and delineated on the Memorial Hardwood Forest map available from DNR offices;
- (19) **Roseau River WMA**, including the Pool 1 Sanctuary, in Roseau County;
- (20) **Rum River State Forest** in Kanabec and Mille Lacs Counties;
- (21) **Savanna State Forest** in Aitkin and St. Louis Counties;
- (22) **Sturgeon River State Forest** in St. Louis County;
- (23) **Thief Lake WMA** in Marshall County; and
- (24) **Whitewater WMA** in Olmsted, Wabasha, and Winona Counties.

#### **Sec. 4. ANTLERLESS PERMIT PROCEDURE FOR NOVEMBER FIREARMS SEASON.**

(a) **Residents and non-residents** are eligible for antlerless permits. Application for an antlerless permit must be made on the official antlerless permit application form (card) issued with the applicant's license. No person shall apply for an antlerless deer permit without first purchasing a 1990 firearms deer license. The application must be for one of the permit areas described in Sec. 9, and must be for the zone and dates on the applicant's 1990 deer license. No person shall submit more than one application for an antlerless permit nor shall any person apply for an antlerless permit in more than one antlerless permit area. No person shall apply for a muzzleloader special permit area or a firearms special permit area who has applied for an antlerless permit, and no person shall apply for an antlerless permit who has applied for a muzzleloader special permit area or a firearms special permit area. Any application that is not completed in accordance with the instructions on the application will be rejected.

(b) After the application has been completed, it must be either mailed or delivered to:

Department of Natural Resources  
License Bureau  
500 Lafayette Road  
St. Paul, Minnesota 55155-4026

Applications that are mailed must be postmarked no later than September 6, 1990. Applications that are delivered must be delivered no later than 4:30 p.m., September 6, 1990. Applications postmarked or delivered after these specified times will not be accepted.

(c) If the number of applications for permits in any area exceeds the quota set forth in paragraph (e) of this section, computerized drawings will be held to determine who will be issued permits.

Where drawings are necessary, two types will be used to select permit holders.

(1) **Preference Drawing.** Anyone 12 years of age or older may enter the preference drawings by supplying his or her driver's license or official State of Minnesota Identification Number on the application. All applicants who have reached their 18th birthday

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by September 6, 1990 must provide one of these two numbers in order to qualify. Applicants establish a preference rating based upon the number of times they have applied in previous years, beginning with 1981, and have not obtained an antlerless permit. The preference rating will increase each year the applicant applies unsuccessfully. Persons applying for the first time have no preference. Applicants receiving permits lose their accrued preference.

(2) **Special Youth Drawing (Non-preference Drawing).** Any person 12 years of age or older but less than 18 on September 6, 1990 and who elects to supply his/her Firearms Safety Training Certificate number in lieu of a driver's license or official State of Minnesota Identification number, will be placed in the non-preference drawing. In this drawing there will be no preference gained and all applicants will have equal opportunity of being selected with all other applicants selecting this option in their permit area. The number of antlerless permits available for the non-preference drawing will be that proportion of the total number of permits for each area represented by the ratio of Firearms Safety numbered applicants to the total applicants for that area.

(d) A valid antlerless permit is the computer generated document mailed to applicants successful in the respective permit area drawings. Only successful applicants will be notified. The antlerless permit is only valid for the zone and dates on the applicant's previously purchased firearms deer license.

(e) Antlerless Permit Areas and quotas for 1990 are as follows:

<u>Area No.</u>	<u>No. Permits</u>						
<u>ZONE 1</u>		<u>ZONE 2</u>		<u>ZONE 3</u>		<u>ZONE 4</u>	
104)		201)	750	337)	750	401)	A-500 B-500
105)	800	202)	550			402)	A-300 B-400
106)		203)	300			403)	A-300 B-400
		204)	1500	338)	500	404)	A-500 B-600
107)		205)	650	339)	900	405)	A-550 B-650
108)		206)	750	341)	2000	406)	A-450 B-550
109)	2000	207)	1000	342)	1500	407)	A-500 B-700
195)		208)	300	343)	2000	408)	A-300 B-450
		209)	700	344)	1400	409)	A-1200 B-1300
110)	400	210)	1000	345)	1500	410)	A-1750 B-1750
				346)	2800	411)	A-1800 B-1800
119)		211)		347)	1300	412)	A-1200 B-1400
120)	3500	212)	900	348)	1700	413)	A-650 B-750
121)		213)		349)	2700	414)	A-450 B-550
						415)	A-250 B-450
122)						416)	A-700 B-800
123)	1300	221)	400			417)	A-900 B-1300
124)		222)	1100			418)	A-700 B-800
125)		223)	700			419)	A-700 B-800
		224)	150			420)	A-350 B-450
126)		225)	1700			421)	A-300 B-400
128)	550	226)	900			422)	A-250 B-250
129)		227)	1500			423)	A-350 B-350
		235)	150			424)	A-250 B-350
152)	100	236)	1100			425)	A-100 B-100
						426)	A-400 B-400
154)		244)				427)	A-175 B-225
155)	2500	245)	4000			428)	A-400 B-500
156)						431)	A-250 B-450
		246)	3000				
157)		247)	1000			432)	
158)	2500	248)	500			433)	A-300 B-500
		249)	800			434)	
159)	2500	251)	400				
						436)	
167)		284)				437)	A-150 B-250
168)	3000	285)	4000				
169)		286)				438)	
						439)	A-40 B-60
170)		287)	400				
171)						442)	
172)	4000	297)	300			444)	A-400 B-600
173)		298)					

Area No.	No. Permits	Area No.	No. Permits	Area No.	No. Permits	Area No.	No. Permits
ZONE 1		ZONE 2		ZONE 3		ZONE 4	
174)						443)	A-400 B-600
175)						446)	A-300 B-450
176)						447)	A-200 B-250
177)	4000					448)	A-350 B-450
178)						449)	A-500 B-700
179)						450)	A-200 B-300
						451)	A-500 B-600
180)						452)	A-300 B-350
181)						453)	A-250 B-300
182)	7000					454)	A-350 B-350
183)						455)	A-125 B-125
199)						456)	A-350 B-350
						457)	A-200 B-400
197)						458)	A-100 B-200
198)	1100					459)	A-400 B-600
						461)	A-250 B-450
						462)	A-400 B-600
						463)	A-400 B-500
						464)	A-200 B-400
						465)	A-100 B-200
						466)	A-300 B-600
						<u>467)</u>	<u>A-300 B-350</u>
						AREAS	PERMITS
						111	138,650

**Sec. 5. SPECIAL FIREARMS PERMIT AREA DEER HUNTS.**

For the areas listed in this section, only permittees randomly selected from the applicants shall be allowed to hunt. Permittees are allowed to take deer by regular firearms or muzzleloaders. Applications for any of these areas must be made according to instructions in Sec. 6 of this order.

**(a) Muzzleloader Special Permit Areas.**

(1) **The Lake Shetek State Park** in Murray County is open for antlerless-only deer hunting by legal muzzleloader during the muzzleloader season. Forty (40) permits will be issued for the period from November 24 to November 30, 1990. Bonus permits will be offered to some applicants if fewer than forty (40) applications are received. Permittees must register at the park headquarters before hunting. Applications must be sent to Lake Shetek State Park, Route 1, Currie, Minnesota 56123. This is Special Permit Area Number 495.

(2) **The Carlos Avery WMA Sanctuary Area** in Anoka and Chisago Counties is open to deer hunting by legal muzzleloader during the muzzleloader season. Twenty (20) permits will be issued for the period from November 24 to November 30, 1990, and twenty (20) permits will be issued for the period from December 1 to December 9, 1990. Applications must be addressed to Sanctuary Deer Hunt, Carlos Avery Game Farm, 5463 W. Broadway, Forest Lake, Minnesota 55025. This is Special Permit Area Number 297.

(3) **Crow Wing State Park** in Crow Wing County is open to deer hunting by legal muzzleloader during the Special Muzzleloader Season. Forty (40) permits will be issued for the period from December 1 to December 3, 1990. Applications must be addressed to Park Manager, 7100 State Park Road SW, Brainerd, Minnesota 56401. This is Special Permit Area Number 249.

(4) **Brainerd-Crow Wing County Airport** in Crow Wing County is open to deer hunting by legal muzzleloader during the Special Muzzleloader Season. Forty (40) permits will be issued for the period from November 24 to December 9, 1990. Applications must be addressed to Airport Director, 2375 Airport Road NE, Brainerd, Minnesota 56401. This is Special Permit Area Number 247.

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(5) **Nerstrand Woods State Park and Game Refuge** in Rice County is open to deer hunting by legal muzzleloader during the Special Muzzleloader Season. Fifty (50) permits will be issued for the period from November 24 to November 27, 1990. Bonus licenses will be available. Applications must be addressed to Nerstrand Muzzleloader Hunt, Box 6247, Rochester, Minnesota 55903. This is Special Permit Area Number 497.

(6) **Twenty-eight (28) areas** in nineteen (19) southwestern counties are open to deer hunting during the Special Muzzleloader Season. An unlimited number of permits will be issued for the period from November 24 to November 30, 1990 and for December 1 to December 9, 1990. Hunters shall apply for only one of the two periods. A permit allows hunters to hunt in any or all of the areas. Maps showing boundaries of the areas will be sent to all applicants along with permits. Applications must be addressed to Muzzleloader Hunt, DNR Regional Headquarters, Box 756, New Ulm, Minnesota 56073. This is Special Permit Area Number 400.

### (b) Firearm Special Permit Areas.

(1) **The Zippel Bay State Park** in Lake of the Woods County is open to deer hunting by legal firearms. Fifty (50) permits will be issued for November 3 to November 11, 1990. Bonus licenses will be available. Permittees must register at the park office before hunting. Applications must be sent to Zippel Bay Deer Hunt, Department of Natural Resources Headquarters, 2115 Birchmont Beach Road NE, Bemidji, Minnesota 56601. This is Special Permit Area Number 298.

(2) **The Elm Creek Park Reserve** in Hennepin County is open to either sex deer hunting by legal shotgun and muzzleloader. Hunters must also possess a valid Zone 3B license. One hundred sixty-five (165) permits will be issued for November 17 to November 18, 1990. Applications must be sent to Elm Creek Park Deer Hunt, Hennepin Parks, 3800 County Road 24, Maple Plain, Minnesota 55359. This is Special Permit Area Number 398.

(3) **The Lake Bronson State Park** in Kittson County is open to deer hunting by legal firearms. Forty (40) permits will be issued for November 8 to November 11, 1990. Bonus licenses will be available. Permittees must register at the park office before hunting. Applications must be sent to Lake Bronson Deer Hunt, DNR Headquarters, Box 9, Lake Bronson, Minnesota 56734. This is Special Permit Area Number 294.

(4) **The Rice Lake National Wildlife Refuge** in Aitkin County is open to deer hunting by legal firearms. One hundred (100) permits will be issued for November 10 to November 12, 1990. A \$5.00 fee is required with each application with checks made out to the U.S. Fish and Wildlife Service. Checks from applicants not drawn will be returned. Applications must be sent to the Rice Lake National Wildlife Refuge, Rt. 2, McGregor, Minnesota 55760. This is Special Permit Area Number 151.

(5) **The St. Croix State Park** in Pine County is open to deer hunting by legal firearms. Six hundred (600) permits will be issued for November 10 to November 11, 1990. Bonus licenses will be available. Applications must be addressed to St. Croix State Park, Route 3, Box 174, Hinckley, Minnesota 55037. This is Special Permit Area Number 153.

(6) **The Forestville State Park** in Fillmore County is open to deer hunting by legal shotgun and muzzleloader. One hundred (100) permits will be issued for November 17 to November 19, 1990. Bonus licenses will be available. Applications must be addressed to Forestville Deer Hunt, DNR Headquarters, Box 6247, Rochester, Minnesota 55903. This is Special Permit Area Number 397.

(7) **The Frontenac State Park** in Goodhue County is open to deer hunting by legal shotgun and muzzleloader. Thirty (30) permits will be issued for November 17 to November 19, 1990. Bonus licenses will be available. Applications must be addressed to Frontenac Deer Hunt, DNR Headquarters, Box 6247, Rochester, Minnesota 55903. This is Special Permit Area Number 390.

(8) **The O.L. Kipp State Park** in Winona County is open to deer hunting by legal shotgun and muzzleloader. One hundred twenty-five (125) permits will be issued for November 17 to November 18, and November 22 to November 23, 1990. Bonus licenses will be available. Applications must be addressed to O.L. Kipp Deer Hunt, DNR Headquarters, Box 6247, Rochester, Minnesota 55903. This is Special Permit Area Number 393.

(9) **The Sakatah Lake State Park** in Rice and LeSueur Counties is open to deer hunting by legal shotgun and muzzleloader. Twenty (20) permits will be issued for November 10 to November 13, 1990. Bonus licenses will be available. Applications must be addressed to Sakatah Lake State Park Deer Hunt, DNR Headquarters, Box 6247, Rochester, Minnesota 55903. This is Special Permit Area Number 395.

### Sec. 6. SPECIAL FIREARMS PERMIT AREA APPLICATION PROCEDURE.

(a) **Purchase of a deer hunting license** is required prior to applying for a special permit area listed in Sec. 5. A firearms deer license validated for the muzzleloader season is required to hunt deer in the muzzleloader special permit areas and a firearms deer license validated for the proper zone and time period is required to hunt deer in the regular firearms special permit areas. The official antlerless permit application form (card) issued with the applicant's license must be used to apply for a special area permit.

(b) **No person shall apply for a muzzleloader special permit area or a firearms special permit area who has applied for an antlerless permit and no person shall apply for an antlerless permit who has applied for a muzzleloader special permit area or a firearms special permit area.**

(c) **No person shall apply more than once** for any one special permit area and no person who applies for any muzzleloader special permit area or any firearms special permit area shall apply for any other muzzleloader special permit area or firearms special permit area.

(d) **Applications for all special permit area hunts** shall be made as follows:

(1) Each person must apply on the official antlerless permit application form issued with the applicant's license.

(2) The applicant should cross out the address for the antlerless permit drawing.

(3) The Special Permit Area Name and Number must be written on the application form in the space labeled "FOR OFFICE USE ONLY." For special areas with more than one hunt period, the choice of hunt periods must be specified by also writing the hunt dates in the space above the birthdate.

(4) The application must be submitted in an envelope addressed to the special area hunt as described in Sec. 5.

(5) All applications must be postmarked or delivered to the designated address no later than September 6, 1990.

(6) Two to four persons desiring to hunt as a party may apply together by submitting their applications in one envelope. Properly completed applications which are submitted in one envelope will either all be selected or none selected.

(e) **Incomplete or improperly completed applications** will be rejected.

(f) **Both Minnesota residents and non-residents** are eligible for special firearms area permits.

(g) **If the number of applications for any special permit area** exceeds the quota, a random selection will be held to determine who will be issued permits.

(h) **The quota of permits** listed for any special permit area may be modified in order to accommodate party members if the last applicant to be drawn for a special permit area is a member of a party.

(i) **Only successful applicants** will be notified.

(j) **Permits are not transferable** between persons or between special permit areas.

(k) **Unsuccessful applicants** for special muzzleloader areas may, at the discretion of the department, be given a second chance for undersubscribed special muzzleloader areas.

#### **Sec. 7. BAG LIMIT AND PARTY HUNTING.**

(a) **Except for persons hunting as a party** as described below, or except as authorized under Bonus Deer provisions in Sec. 15, no person shall take or tag more than one deer during any calendar year whether by firearms or bow and arrow. Said deer must be of the age and sex, and taken during such time and in such location, as permitted under the hunter's license and permit.

(b) **Party hunting for deer is permitted** according to the following rules:

(1) A party is any group of two or more licensed deer hunters all of whom are afield hunting together at the same time all using firearms or all using bow and arrow.

(2) Any member of a party may kill a legal buck for any other member of the party who has an unused tag. Any member of a party may tag a legal buck killed by any other member of the party.

(3) Any member of a party may kill an antlerless deer for any other member of the party who has an unused tag valid for an antlerless deer. Antlerless deer may only be tagged by party members licensed to take antlerless deer within the same area.

#### **Sec. 8. DEER ZONES—1990.**

(a) **Deer Zone 1.**

That portion of the state lying within the following described boundary:

Beginning on State Trunk Highway (STH) 72 at the northern boundary of the state, thence along STH 72 to the Tamarac River, Beltrami County; thence along the southerly shore of the Tamarac River to Upper Red Lake; thence along the easterly and southerly shores of Upper Red Lake to the easterly boundary of the Red Lake Indian Reservation; thence along the easterly boundary of said Reservation to STH 1; thence east along STH 1 to STH 72; thence along STH 72 to U.S. Highway 71; thence along U.S. Highway 71 to County State Aid Highway (CSAH) 39, Beltrami County; thence along CSAH 39 to CSAH 20, Beltrami County; thence west along CSAH 20 to the junction with CSAH 53, Beltrami County; thence south along CSAH 53 to CSAH 12, Beltrami County; thence east along CSAH 12 to CSAH 51, Beltrami County; thence south along CSAH 51 to CSAH 8, Beltrami County; thence west along CSAH 8 to CSAH 25, Beltrami County; thence south along CSAH 25 to CSAH 4, Beltrami County; thence south along CSAH 4 to CSAH 46, Hubbard County; thence along CSAH 46 to U.S. Highway 2; thence along U.S. Highway 2 to CSAH 45, Hubbard County; thence in a southerly direction along CSAH 45 to the junction of CSAH 9, Hubbard County; thence in an easterly direction along CSAH 9 to the junction of CSAH 69, Cass County; thence in a southerly direction along CSAH 69 to the junction of CSAH 5, Hubbard County; thence in a southerly direction along CSAH 5 to the junction of CSAH 39, Hubbard County; thence in an easterly direction along

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CSAH 39 to the junction of County Road 94, Hubbard County; thence in a southerly direction along County Road 94 to the junction of CSAH 31, Hubbard County; thence in a westerly direction along CSAH 31 to STH 200; thence along STH 200 to STH 371; thence along STH 371 to STH 84; thence along STH 84 to CSAH 2, Cass County; thence along CSAH 2 to CSAH 1, Crow Wing County; thence along CSAH 1 to STH 6; thence along STH 6 to STH 18; thence along STH 18 to U.S. Highway 169; thence due east from said junction to the west shore of Mille Lacs Lake; thence along the westerly and southerly shores of said lake to a point due north of the junction of U.S. Highway 169 and STH 27; thence due south to said junction; thence along U.S. Highway 169 to STH 23; thence along STH 23 to STH 65; thence along STH 65 to STH 70; thence along STH 70 to the east boundary of the state; thence along the easterly and northerly boundaries of the state to the point of beginning.

### (b) Deer Zone 2.

That portion of the state lying within the following described boundary:

Beginning on State Trunk Highway (STH) 72 at the northern boundary of the state; thence along STH 72 to the Tamarac River, Beltrami County; thence along the southerly shore of the Tamarac River to Upper Red Lake; thence along the easterly and southerly shores of Upper Red Lake to the easterly boundary of the Red Lake Indian Reservation; thence along the easterly boundary of said Reservation to STH 1; thence east along STH 1 to STH 72; thence along STH 72 to U.S. Highway 71; thence along U.S. Highway 71 to County State Aid Highway (CSAH) 39, Beltrami County; thence along CSAH 39 to CSAH 20, Beltrami County; thence west along CSAH 20 to the junction with CSAH 53, Beltrami County; thence south along CSAH 53 to CSAH 12, Beltrami County; thence east along CSAH 12 to CSAH 51, Beltrami County; thence south along CSAH 51 to CSAH 8, Beltrami County; thence west along CSAH 8 to CSAH 25, Beltrami County; thence south along CSAH 25 to CSAH 4, Beltrami County; thence south along CSAH 4 to CSAH 46, Hubbard County; thence along CSAH 46 to U.S. Highway 2; thence along U.S. Highway 2 to CSAH 45, Hubbard County; thence in a southerly direction along CSAH 45 to the junction of CSAH 9, Hubbard County; thence in an easterly direction along CSAH 9 to the junction of CSAH 69, Cass County; thence in a southerly direction along CSAH 69 to the junction of CSAH 5, Hubbard County; thence in a southerly direction along CSAH 5 to the junction of CSAH 39, Hubbard County; thence in an easterly direction along CSAH 39 to the junction of County Road 94, Hubbard County; thence in a southerly direction along County Road 94 to the junction of CSAH 31, Hubbard County; thence in a westerly direction along CSAH 31 to STH 200; thence along STH 200 to STH 371; thence along STH 371 to STH 84; thence along STH 84 to CSAH 2, Cass County; thence along CSAH 2 to CSAH 1, Crow Wing County; thence along CSAH 1 to STH 6; thence along STH 6 to STH 18; thence along STH 18 to U.S. Highway 169; thence due east from said junction to the west shore of Mille Lacs Lake; thence along the westerly and southerly shores of said lake to a point due north of the junction of U.S. Highway 169 and STH 27; thence due south to said junction; thence along U.S. Highway 169 to STH 23; thence along STH 23 to STH 65; thence along STH 65 to STH 70; thence along STH 70 to the eastern boundary of the state; thence along the eastern boundary of the state to the junction of the St. Croix and Mississippi Rivers; thence along the easterly bank of the Mississippi River to U.S. Highway 10; thence along U.S. Highway 10 to U.S. Highway 71; thence along U.S. Highway 71 to STH 87; thence along STH 87 to U.S. Highway 10; thence along U.S. Highway 10 to U.S. Highway 59; thence along U.S. Highway 59 to the southern boundary of the White Earth Indian Reservation; thence along the southern, western and northern boundaries of said Reservation to STH 59; thence along STH 59 to the northern boundary of the state; thence along the northern boundary of the state to the point of beginning.

### (c) Deer Zone 3.

That portion of the state lying within the following described boundary:

Beginning at the junction of the Mississippi River and the mouth of the Crow River, Wright County; thence along the easterly bank of the Crow River to the mouth of the South Fork of the Crow River; thence along the easterly bank of the South Fork of the Crow River to State Trunk Highway (STH) 25; thence along STH 25 to the Minnesota River; thence along the easterly bank of the Minnesota River to STH 19; thence along STH 19 to U.S. Highway 52; thence along U.S. Highway 52 to STH 57; thence along STH 57 to the municipal boundary of Kasson; thence along the municipal boundary of Kasson to County State Aid Highway (CSAH) 13, Dodge County; thence along CSAH 13 to STH 30; thence along STH 30 to U.S. Highway 63; thence along U.S. Highway 63 to the south boundary of the state; thence along the southerly and easterly boundaries of the state to the junction of the St. Croix and Mississippi Rivers; thence along the easterly bank of the Mississippi River to the point of beginning.

### (d) Deer Zone 4.

That portion of the state lying within the following described boundary:

Beginning on U.S. Highway 59 at the north boundary of the state; thence along U.S. Highway 59 to the north boundary of the White Earth Indian Reservation; thence along the north, west and south boundaries of said Reservation to U.S. Highway 59; thence along U.S. Highway 59 to U.S. Highway 10; thence along U.S. Highway 10 to State Trunk Highway (STH) 87; thence along STH 87 to U.S. Highway 71; thence along U.S. Highway 71 to U.S. Highway 10; thence along U.S. Highway 10 to the easterly bank of the Mississippi River; thence along the easterly bank of the Mississippi River to the mouth of the Crow River, Wright County; thence along the easterly bank of the Crow River to the mouth of the South Fork of the Crow River; thence along the easterly bank of the South Fork of the Crow River to STH 25; thence along STH 25 to the Minnesota River; thence along the easterly bank of the Minnesota

River to STH 19; thence along STH 19 to U.S. Highway 52; thence along U.S. Highway 52 to STH 57; thence along STH 57 to the municipal boundary of Kasson; thence along the municipal boundary of Kasson to County State Aid Highway (CSAH) 13, Dodge County; thence along CSAH 13 to STH 30; thence along STH 30 to U.S. Highway 63; thence along U.S. Highway 63 to the south boundary of the state; thence along the southerly and westerly boundaries of the state to the point of beginning.

**Sec. 9. ANTLERLESS PERMIT AREAS.**

A series of Deer Registration Blocks is established by Commissioner's Order No. 2342 or superseding orders and amendments. Permit areas are comprised of partial, single, or grouped Registration Blocks as listed below or as otherwise described herein:

**(a) Antlerless Permit Areas in Zone 1.**

**Permit Area 110** consists of Registration Block 110.

**Permit Area 104—105—106** consists of Registration Blocks 104, 105 and 106.

**Permit Area 107—108—109—195** consists of Registration Blocks 107, 108, 109 and 195.

**Permit Area 119—120—121** consists of Registration Blocks 119, 120 and 121.

**Permit Area 122—123—124—125** consists of Registration Blocks 122, 123, 124, and 125.

**Permit Area 126—128—129** consists of Registration Blocks 126, 128 and 129.

**Permit Area 152** consists of Registration Block 152.

**Permit Area 154—155—156** consists of Registration Blocks 154, 155 and 156.

**Permit Area 157—158** consists of Registration Blocks 157 and 158.

**Permit Area 159** consists of Registration Block 159.

**Permit Area 167—168—169** consists of Registration Blocks 167, 168 and 169.

**Permit Area 170—171—172—173—174** consists of Registration Blocks 170, 171, 172, 173 and 174.

**Permit Area 175—176—177—178—179** consists of Registration Blocks 175, 176, 177, 178 and 179.

**Permit Area 180—181—182—183—199** consists of Registration Blocks 180, 181, 182, 183 and 199.

**Permit Area 197—198** consists of Registration Blocks 197 and 198.

**(b) Antlerless Permit Areas in Zone 2.**

**Permit Areas 201 through 210** consist of the Registration Blocks with the same identification numbers.

**Permit Area 211—212—213** consists of Registration Blocks 211, 212 and 213.

**Permit Areas 221 through 227 and 235 through 236** consist of the Registration Blocks with the same identification numbers.

**Permit Area 244—245** consists of Registration Blocks 244 and 245.

**Permit Areas 246 through 249** consist of the Registration Blocks with the same identification numbers.

**Permit Area 251** consists of Registration Block 251 (Tamarac National Wildlife Refuge).

**Permit Area 284—285—286** consists of Registration Blocks 284, 285 and 286.

**Permit Area 287** consists of Registration Block 287 (Itasca State Park).

**Permit Area 297—298** consists of Registration Blocks 297 and 298.

**(c) Antlerless Permit Areas in Zone 3.**

**Permit Areas 337 through 339 and 341 through 349** consist of the Registration Blocks with the same identification numbers.

**(d) Antlerless Permit Areas in Zone 4.**

**Permit Areas 401 through 428** consist of the Registration Blocks with the same identification numbers.

**Permit Area 431** consists of Registration Block 431.

**Permit Area 432—433—434** consists of Registration Blocks 432, 433 and 434.

**Permit Area 436—437** consists of Registration Blocks 436 and 437.

**Permit Area 438—439** consists of Registration Blocks 438 and 439.

**Permit Area 442—444** consists of Registration Blocks 442 and 444.

**Permit Area 443** consists of Registration Block 443.

**Permit Areas 446 through 459 and 461 through 467** consist of the Registration Blocks with the same identification numbers.

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## Sec. 10. WEAPONS ZONES.

### (a) Northern Minnesota December Archery Zone.

The Northern Minnesota December Archery Zone consists of all of firearms deer Zone 1 described in Sec. 8(a) and those parts of firearms deer Zones 2 and 4 described in Sec. 8(b) and (d) lying north of a line beginning on Interstate Highway 94 (I-94) at the western boundary of the state; thence along I-94 to State Trunk Highway (STH) 23; thence northeasterly along STH 23 to STH 95; thence along STH 95 to U.S. Highway 8; thence along U.S. Highway 8 to the eastern boundary of the state.

### (b) Southeast Minnesota December Archery Zone.

The Southeast Minnesota December Archery Zone consists of all of firearms deer Zone 3 described in Sec. 8(c) and that part of firearms deer Zone 2 described in Sec. 8(b) lying south of the line described in Sec. 10(a).

### (c) Shotgun Zone.

The Shotgun Zone is that portion of the state lying within the following described boundary:

Beginning on the north boundary of the state at U.S. Highway 75; thence along U.S. Highway 75 to Crookston; thence along U.S. Highway 2 to State Trunk Highway (STH) 9; thence along STH 9 to STH 102; thence along STH 102 to Fertile; thence along STH 32 to STH 34; thence along STH 34 to Interstate Highway 94 (I-94); thence along I-94 to County State Aid Highway (CSAH) 40, Douglas County; thence along CSAH 40 to CSAH 82, Douglas County; thence along CSAH 82 to CSAH 22, Douglas County; thence along CSAH 22 to CSAH 6, Douglas County; thence along CSAH 6 to CSAH 14, Douglas County; thence along CSAH 14 to STH 29; thence along STH 29 to Parkers Prairie; thence along CSAH 46, Otter Tail County, to CSAH 22, Todd County; thence along CSAH 22 to Eagle Bend; thence along U.S. Highway 71 to Long Prairie; thence along STH 27 to Little Falls; thence along the east bank of the Mississippi River to St. Cloud; thence along STH 23 to STH 95; thence along STH 95 to U.S. Highway 8; thence along U.S. Highway 8 to the eastern boundary of the state; thence along the eastern, southern, western and northern boundaries of the state to the point of beginning.

(d) **All Legal Firearms Zone.** The All Legal Firearms Zone is that part of the state lying outside of the shotgun zone.

## Sec. 11. DEER REGISTRATION.

Registration agents are not required to inspect or verify the presence of deer at registration stations. Legally registered deer may be transported anytime during or after the deer hunting season.

### (a) Bow and Arrow Deer Registration.

(1) Every person taking a deer with bow and arrow shall, within 48 hours after taking, present the deer to a designated deer registration station or other authorized agent who shall provide a tag to be affixed to the carcass in the same manner as is required for the seal in Sec. 13(e). No part of the carcass except entrails shall be removed until after the possession tag has been affixed.

(2) All deer taken on the Metro Bonus Bow License must be registered at a registration station in the seven-county Twin Cities Metro Area before being removed from the seven-county area.

### (b) Firearms Deer Registration.

Every person taking a deer with firearms shall present the deer for registration at a designated deer registration station or agent of the Commissioner and obtain a Big Game Possession Tag *before any of the following occur*: before the deer is removed from the zone in which it is taken; before the deer is processed either privately or commercially; and before 24 hours after the close of the season specified on the license. In addition:

(1) The head must remain attached to the carcass until the deer is registered.

(2) The possession tag (registration receipt) must be tied securely to a leg of the deer as described for the tag in Sec. 13(e).

(3) No person may process a deer unless it has been registered as evidenced by an attached possession tag.

(4) Residents of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington Counties may transport and possess deer outside the zone where taken in order to register at one of the "last chance" registration stations listed below.

Anoka	Jack's Sporting Goods 2115 Second Avenue North
Blaine	Tecto Gun and Sports 8575 Central Avenue N.E.
Bloomington	Spur General 9200 Old Cedar Avenue South at Old Shakopee Road
Brooklyn Park	Acme-Gross Taxidermy 1720—73rd Avenue North

Excelsior	Roy's Live Bait 360 Hwy. 7
Forest Lake	Stu's Standard I-35 and West Broadway
Lakeville	Superamerica I-35 and Hwy. 50
North St. Paul	Larry's Live Bait 2625 White Bear Avenue
Plymouth	Markham's Sporting Goods Junction Hwys. 55 and 101

(5) Official registration stations located within the village or city limits through which a zone boundary passes or an official registration station across the road but adjacent to the zone in which a deer is legally taken meet the requirement for registration within a zone.

(6) All deer taken in Firearms Special Permit Areas must be registered at the headquarters office for the area but may be transported outside the Special Permit Area prior to registration in order to reach the headquarters, except the required registration stations for Zippel Bay State Park are either the official registration station in Williams, or the State Fire Warden's office one mile east of the park entrance.

**(c) Muzzleloader Deer Registration.**

Every person taking a deer with a muzzleloader during the special muzzleloader season within the areas described in Secs. 3(f) or 5(a) of this order shall present the deer for registration at the designated registration station for the area in which the deer was taken. Registration shall be made no later than 24 hours after the expiration of the license or permit under which the deer was taken.

**(d) Big Game Possession Tag Issuance.**

The deer license number and the year for which the possession tag is being issued shall be recorded in the appropriate place on the possession tag by means of a ballpoint pen. If a mistake is made in writing the license number, the agent making the mistake must take such incorrect possession tag back and issue a correct one.

**Sec. 12. MILITARY PERSONNEL.**

Any resident on leave or furlough from the armed forces of the United States who is entitled to a free deer license pursuant to *Minnesota Statutes* § 97A.465 or any disabled veteran who is entitled to a free deer license pursuant to *Minnesota Statutes* § 97A.445 may hunt deer under the following conditions:

(a) The free license and seal must be obtained from the county auditor.

(b) The auditor must punch the zone and the date option selected by the applicant.

(c) Such a license entitles the holder to take a deer in the zone and during the date option selected. Antlerless deer may be taken in that portion of the zone where quotas are prescribed in Sec. 4(e), but the taking of antlerless deer must be confined to the dates when antlerless deer permits are valid within the zone selected. Such a license is not valid in the special areas described Sec. 5. Such licensees are not eligible for bonus licenses.

(d) If the muzzleloader season is selected (Nov. 24—Dec. 9), hunting must be confined to those areas described in Secs. 3(f) and 5(a) and is subject to all other provisions applying to the muzzleloader hunt.

(e) The license and officials leave or furlough papers or evidence of disability must be carried on the person of the licensee while hunting deer and transporting any deer taken.

(f) All persons hunting deer pursuant to this section must comply with all provisions of this order not inconsistent with this section.

**Sec. 13. SPECIAL PROVISIONS.**

(a) No license to take deer with firearms (including muzzleloader) or with bow and arrow may be issued after the day prior to the first day of the regular firearms season except as authorized for bonus deer in Sec. 15.

(b) A license to take deer with bow and arrow issued after the opening of the bow and arrow deer season shall not be valid until the fifth day after it is issued except as authorized for bonus deer in Sec. 15.

(c) No person who has a valid license to take deer shall operate a snowmobile, three-wheel motorcycle or any other all-terrain vehicle in any area open for the taking of deer by firearms during legal shooting hours on any day when the person is licensed to take deer within that area except for the period from 11 a.m. to 2 p.m. each day. All-terrain vehicles include trail bikes, Cushman 6-wheelers, Cushman Tracksters, Bombadier J-5's and all other similarly manufactured and homemade vehicles. Not included area trail bikes licensed and being legally operated on a public road or highway, four wheel drive road vehicles, farm tractors, motorcycles and similar vehicles. This regulation applies on all lands and waters regardless of ownership except that anyone using an all-terrain vehicle

## Commissioners' Orders

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while pursuing his or her occupation on his or her own land and not in possession of a firearm is exempt. A permit to operate these restricted vehicles during the restricted hours may be issued by a conservation officer in the event of an emergency or other unusual conditions.

(d) All deer must be transported in such a manner that inspection by registration agents or enforcement officers is readily accomplished.

(e) No deer taken in this state shall be transported or possessed unless the seal issued with the license and bearing the license number of the owner and the year of its issue has had the month and day of the kill scratched off from the appropriate spaces on the seal and has been affixed to its carcass between the tendon and the bone and around the bone of a hind leg such that the seal cannot be removed. The seal must be so affixed at the time the deer is brought into any hunting camp, dwelling, farm yard, or other place of abode of any kind occupied overnight, or before being placed wholly or partially on a motor vehicle of any kind, or upon a conveyance towed by a motor vehicle of any kind. Marking more than one date will invalidate the seal.

(f) Every person taking a deer must retain the required license, permit, seal, and big game possession tag as long as any part of the meat is in possession.

(g) No deer shall be taken in any manner in any area of the state except as herein expressly provided or as otherwise provided by statute or Commissioner's Order.

(h) All animals taken pursuant to this order must be killed before being removed from the site where taken.

(i) Except as specifically authorized none of the provisions of this order shall be construed as modifying or superseding any order establishing game refuges within the state nor as permitting the taking of any wild animals within such refuges or within state parks.

(j) State park vehicle permits are required on all vehicles taken into Minnesota state parks by hunters.

(k) All licensed big game hunters who are hunting with bow and arrow shall have their bows unstrung or cased during the time they are licensed to take big game while in the field from 30 minutes after the close of shooting hours to 30 minutes before the start of shooting hours daily. No licensed bow hunter shall occupy any elevated deer stand at any time from sunset to one hour before sunrise.

(l) It is unlawful to construct, occupy or use any elevated scaffold or other elevated device for the purpose of hunting, watching for or killing big game in state parks, except that portable tree stands may be used for this purpose provided they are removed each day at the close of hunting hours and do no permanent damage to trees in which they are placed.

### Sec. 14. OTHER OPEN AREAS.

(a) Itasca State Park in Becker, Clearwater and Hubbard Counties is open to the firearms hunting of deer, except where posted as closed, during the established firearms deer season therefor in the zones in which it is located.

(b) Carver Rapids State Wayside in Scott County is open to deer hunting by legal bow and arrow during the established deer season therefor in the zones in which it is located.

(c) The Rothsay Wildlife Management Area (WMA) Sanctuary is open to deer hunting during the established seasons therefor in the zones in which it is located.

### Sec. 15. BONUS DEER LICENSES.

(a) A bonus deer license is a license to take a second deer during 1990. The deer taken under a bonus license must be an antlerless deer. All deer taken under a bonus deer license must be taken by legal firearms or legal bow and arrow as indicated on the license purchased. Bonus deer licenses are authorized in three situations: (1) by firearms in Antlerless Permit Areas where the number of applications is less than the number of permits available; (2) by firearms in Special Permit Areas consisting of Forestville State Park, Lake Bronson State Park, Zippel Bay State Park, Frontenac State Park, O.L. Kipp State Park, Nerstrand Woods State Park, St. Croix State Park, Sakatah Lake State Park, and Lake Shetek State Park; (3) by bow and arrow in parts of the seven-county Twin Cities Metro Area, including the Special Permit Areas of Crow-Hassan Park Reserve, Murphy-Hanrehan Park Reserve, and Cleary Lake Regional Park.

(b) In undersubscribed Antlerless Permit Areas, the number of bonus deer licenses authorized is up to twice the difference between the number of permits available and the number of antlerless permits issued. In firearms Special Permit Areas the number of bonus deer licenses authorized is equal to the number of special area permits issued for each such area. In the Metro Bow Bonus Area the number of bonus deer licenses authorized is unlimited.

(c) The purchase of a bonus deer license for an undersubscribed area will be authorized by a 3-part certificate issued by the Minnesota Department of Natural Resources by October 22, 1990. These certificates will be issued to hunters randomly drawn from permittees in each undersubscribed area who have checked the bonus deer option on their antlerless permit applications. A bonus deer license for an undersubscribed Antlerless Permit Area may be purchased by the person issued a certificate at any Minnesota County Auditor's office by submitting the 3-part certificate. One part of this certificate shall be retained by the county auditor for his records.

The second part of the certificate shall be mailed by the county auditor to the Wildlife Section, Box 7 DNR Building, 500 Lafayette Road, St. Paul, Minnesota 55155-4007 immediately following receipt of the license fee. The third part of the certificate shall be returned to the bonus deer license buyer along with a special leg tag provided for bonus deer. Bonus deer licenses for undersubscribed areas must be purchased on or before November 2, 1990.

(d) Bonus deer licenses for Special Permit Areas may be purchased only at the headquarters for such areas either upon registering at the Special Permit Area or upon attending hunt orientation sessions for such areas. State Park and National Wildlife Refuge personnel are authorized to sell such bonus deer licenses to Special Area Permit holders at any time prior to the permit holders hunting on the special area.

(e) The purchase of a Metro Bow Bonus Deer License is authorized for any person who has purchased and presents a 1990 Bow and Arrow Deer License. The Metro Bow Bonus License authorizes the taking of a bonus antlerless deer within the Metro Bow Bonus Deer Area as shown on a map provided to all purchasers of this license. This license is also valid in some special hunts as specified in Sec. 2(c). Metro Bow Bonus licenses and maps are available from county auditors in Anoka, Carver, Dakota, Hennepin, Scott and Washington Counties and from the DNR License Bureau in St. Paul. No Metro Bow Bonus licenses will be sold after November 2, 1990.

(f) A bonus deer license for an undersubscribed Antlerless Permit Area is valid for the taking of one antlerless deer only within the Antlerless Permit Area designated on the bonus deer license.

(g) A bonus deer license for a Special Permit Area is valid only for the taking of one antlerless deer within the Special Permit Area designated on that bonus deer license.

Dated at St. Paul, Minnesota, this 9th day of August, 1990.

Joseph N. Alexander, Commissioner  
Department of Natural Resources

## **Proposed Rule (continued from page 476)**

### **Department of Human Services**

#### **FISCAL NOTE: In the Matter of Proposed Rules of the Department of Human Services Relating to Licensing Functions of County and Private Agencies; Parts 9543.0010 to 9543.0150**

##### **I. Summary of Costs**

	Local costs	State costs
Year One	\$368,799	\$0
Year Two	<u>\$368,799</u>	<u>\$0</u>
Total	\$737,598	\$0

The Department sent a survey to the 87 county human service agencies to gather fiscal information concerning this rule. See part III for details on the methodology used in estimating costs. There was considerable variation in rule parts identified by the counties as resulting in "new" costs. Except for a current rule requirement under the child foster care rule and a requirement to track license progress (which has since been modified), no single rule requirement was identified as particularly costly. The estimated local costs reflect the sum of many relatively small costs rather than the costs of one or two rule requirements. Major costs identified by rule requirement include:

- A. Part 9543.0060, subpart 4, Foster Care Licensing Study, \$45,928.
- B. Part 9543.0060, subpart 5, Duties of agency, \$39,520.
- C. Part 9543.0040, subpart 1, Licensure information, \$35,068
- D. Part 9543.0070, subpart 2, Timelines, \$32,640.

The variation in costs identified by the counties indicates a lack of licensing uniformity and serves to reinforce the need for this rule. The costs identified for the second year are estimated to be the same as those identified by the counties for the first year. See Part III for a detailed breakdown of costs.

# Proposed Rules

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## II. Background Information on the Rule and Available Funds

### 1. PURPOSE OF THE RULE

The purpose of parts 9543.0010 to 9543.0150 is to promote uniform enforcement of rules governing licensure of family day care, adult foster care, and child foster care programs; to establish minimum standards for performing licensing functions related to those rules; and to certify county agencies and authorize private agencies that are in compliance with this rule.

### 2. STATUTORY AUTHORITY FOR THE RULE

*Minnesota Statutes*, sections 245A.09 and 245A.16.

### 3. REASONS FOR ADOPTION OF THE RULE

Rule adoption is necessary to implement *Minnesota Statutes*, sections 245A.16 and 466.131.

*Minnesota Statutes*, section 245A.16, subdivision 6, of the Human Services Licensing Act requires the commissioner to ensure that licensing rules are uniformly enforced throughout the state by reviewing county and private agencies for compliance with applicable laws and rules. County agencies that comply with section 245A.16, are to be certified by the commissioner.

*Minnesota Statutes*, section 466.131 states, "After July 1, 1987, a municipality is an employee of the state for purposes of the indemnification provision of section 3.736, subdivision 9, when the municipality is required by the public welfare licensing act and rules adopted under it to inspect or investigate a provider, and the municipality has been duly certified under standards for certification developed by the commissioner of human services."

### 4. AVAILABILITY OF FUNDS

Family systems (child foster care, adult foster care, and family day care programs) licensing functions are funded through CSSA block grant funds and local revenue sources. The CSSA Block Grant for fiscal year 1990 is \$50.4 million. Although CSSA block grant funds may be used to perform licensing functions, social services needs exceed available CSSA funding.

### 5. PROJECTED STATE AND LOCAL COSTS

#### A. STATE COSTS

*Minnesota Statutes*, section 245A.16 requires the commissioner to provide instruction and technical assistance to county and private agencies subject to section 245A.16 and to ensure that rules are uniformly enforced throughout the state by reviewing each county and private agency for compliance with section 245A.16 and other applicable laws and rules at least biennially. The legislature appropriated funds for three FTEs to enable the department to comply with the requirements in section 245A.16. No additional state costs are anticipated with the adoption of this rule.

#### B. LOCAL COSTS

Additional local costs with the adoption of this rule are estimated to be \$368,799 per year.

Family systems licensing functions are performed by county and private agencies (private agencies recommend licensure of child foster care programs only). The purpose of Rule 13 is to ensure licensing functions are uniformly performed throughout the state. Rule 13 sets forth minimum standards for performing these licensing functions. The licensing functions implement licensure of Family Systems: Family Day Care governed by *Minnesota Rules*, parts 9502.0315 to 9502.0445; Family Foster Care, *Minnesota Rules*, parts 9545.0010 to 9545.0260; and Adult Foster Care, *Minnesota Rules*, parts 9555.5105 to 9555.6265.

#### C. PRIVATE AGENCY COSTS

Private agencies perform licensing functions for child foster care programs. The 1,062 programs supervised by private agencies are 6 percent of the total Family Systems program licenses. Cost were not identified for private agencies since *Minnesota Statutes*, section 14.11 only requires a fiscal estimate for public bodies and private agencies are not required to perform licensing functions.

## III. METHODOLOGY USED IN DETERMINING COSTS UNDER NEW RULE

The department in REQUEST BULLETIN NO. 89-50C requested county agencies to review a draft of Rule 13 and identify additional agency costs directly attributable to the rule by specific rule part. Attached is a copy of Request Bulletin No. 89-50C.

Use of the request bulletin afforded counties an opportunity to provide fiscal information to the department on the cost of the rule. Identification of additional costs by specific rule part permitted the department to reexamine proposed rule parts to determine if less costly alternatives were available to achieve the objective.

Forty-nine counties responded to the survey. Seven counties plus the foster care program in Dakota County did not identify specific cost areas but indicated compliance with Rule 13 would result in additional costs or additional staffing. Since it is not possible to determine in those instances whether costs are the result of new requirements or the cost of complying with existing requirements in program rules and statutes, the department did not include those costs estimates in the fiscal note. The seven counties and Dakota County's foster care program were treated as non-reporting counties.

Thirty counties identified as an additional cost the requirement to track license progress (part 9543.0040, subpart 6). Due to the number of counties identifying this requirement as an additional cost and the costs identified, this rule part has been modified. The commissioner will issue a form listing the required activities to simplify the agency's tracking process as well as enable the commissioner to monitor compliance with rule requirements. This change will result in lower costs to the counties than those initially identified.

In two rule parts high cost estimates were a result of misinterpretation of the rule requirements. The two rule parts were 9543.0060, subpart 5, item E and 9543.0090, subpart 4. Part 9543.0060, subpart 5, item E requires foster care providers have a means of contacting the agency 24 hours per day. Part 9543.0090, subpart 4 addresses compliance with correction orders. The department has subsequently modified the proposed rule language to clarify these two rule requirements. Clarification of the two rule parts will result in lower costs to the county than those initially identified.

Some counties identified current statutory or rule requirements as additional costs under Rule 13. Where an identified cost is clearly a statutory or existing rule requirement, that cost has not been included in this fiscal note as a Rule 13 cost.

To adjust total costs to account for counties that did not respond to the survey, the department used the ratio of the number of programs licensed by the reporting counties to the total number of programs licensed by all counties. The 41 reporting counties (excludes the 7 counties that did not provide cost breakdowns plus foster care in Dakota County) license approximately 75 percent of all Family Systems programs. Specifically, these counties license: 9,039 family day care programs; 2,186 child foster care programs; and 697 adult foster care programs.

Reported costs were adjusted to provide an estimate of 100 percent of the costs had all counties responded to the survey, by dividing the total reported cost for each item by 75 percent.

Finally, there was considerable variation in rule parts that counties identified as new cost areas. Unless at least 10 percent of the counties responding (5 or more) identified a requirement as a new cost, the cost was not treated as a new cost. Notwithstanding differences which may exist between counties, if 9 out of 10 counties are currently performing a licensing function and have not identified the requirement as a new cost, it is reasonable to assume the requirement is not a new cost.

#### **TREATMENT OF INDIVIDUAL COST ITEMS.**

##### **1. Part 9543.0040 LICENSE APPLICATION PROCEDURES.**

###### **1. Subpart 1. LICENSE APPLICATION PROCEDURES. \$35,068**

24 counties identified additional costs totalling \$26,301. If the cost estimates represent 75 percent of the total costs to all counties, 100 percent equals \$35,068.

###### **2. Subp. 2. LICENSING STUDY. \$23,683**

17 counties identified additional costs totalling \$124,212. Hennepin County's estimate of \$50,000 for systems automation was deleted since that cost is not directly related to any Rule 13 requirement. Ramsey County's estimate of \$56,450 was deleted since costs identified are statutory requirements (background study—245A.04, subd. 3; and evaluation of a program—245A.04, subd. 4). The adjusted cost estimate is \$17,762. If the adjusted costs represent 75 percent of the total costs to all counties, 100 percent equals \$23,683.

###### **3. Subp. 5. LICENSE RENEWAL. \$21,565**

8 counties identified additional costs totalling \$16,174. If the cost estimates represent 75 percent of the total costs to all counties, 100 percent equals \$21,565.

###### **4. Subp. 6. TRACKING LICENSING PROCESS. \$8,797**

30 counties identified additional costs totalling \$87,967. Due to the number of counties identifying this subpart as an additional cost and the estimates reported, the proposed rule was modified. The modification requires the use of a checklist issued by the department to track licensing progress. Presumably, agencies currently track license applications by manually checking the file's content. The use of a checklist will provide a quick and simple means of providing an inventory of what is in a license file. The use of a checklist should have a minimal fiscal impact on county agencies. The cost figure above represents approximately 10 percent of the costs originally reported.

##### **2. Part 9543.0050 VARIANCE REQUESTS.**

###### **Subpart 1. Variance information. \$0**

**KEY: PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

## Proposed Rules

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Less than 10 percent of the responding counties identified subpart 1 as new a cost.

**Subp. 2.** Variance procedures. \$3,812

7 counties identified additional costs totalling \$2,859. If the cost estimates represent 75 percent of the total costs of all counties, 100 percent equals \$3,812.

**Subp. 3.** Foster care capacity variance at request of agency. \$4,340

8 counties identified additional costs totalling \$3,255. If the additional costs represent 75 percent of the total costs to all counties, 100 percent equals \$4,340.

### 3. Part 9543.0060 LICENSING FOSTER CARE PROGRAMS.

**1. Subp. 2.** Program information. \$5,363

10 counties identified additional costs totalling \$4,022. If the additional costs represent 75 percent of the total costs to all counties, 100 percent equals \$5,363.

**2. Subp. 3.** Orientation and preplacement training. \$11,776

7 counties identified additional costs totalling \$8,832. If the additional costs represent 75 percent of the total costs to all counties, 100 percent equals \$11,776.

**3. Subp. 4.** Licensing study. \$45,928

13 counties identified additional costs totalling \$34,446. If the additional costs represent 75 percent of the total costs to all counties, 100 percent equals \$45,928.

**4. Subp. 5.** General requirements. \$39,520

18 counties identified additional costs totalling \$397,999. However, estimates for Hennepin, Ramsey, Dakota, and Anoka counties identified costs for conducting 6 licensing or placement visits to the foster home during the first six months after the first placement. This is a current rule requirement (*Minnesota Rules*, part 9545.0100, item B). Therefore, those cost estimates were excluded since they are not a new cost attributable to Rule 13. The adjusted cost estimate is \$29,640. If the adjusted cost represents 75 percent of the total costs to all counties, 100 percent equals \$39,520.

### 4. Part 9543.0070 INVESTIGATION OF LICENSED PROGRAMS.

**1. Subp. 2.** Timelines. \$32,640

10 counties identified additional costs totalling \$24,480. If the additional costs represent 75 percent of the total costs to all counties, 100 percent equals \$32,640.

**2. Subp. 5.** Recording complaints and investigations. \$27,591

19 counties identified additional costs totalling \$20,693. If the additional costs represent 75 percent of the total costs to all counties, 100 percent equals \$27,591.

### 5. Part 9543.0080 COUNTY INVESTIGATION OF UNLICENSED PROGRAMS.

**1. Subpart 1.** Unlicensed family day care and adult foster care. \$0

9 counties identified additional costs totalling \$43,275. Ramsey County's estimate of \$40,050 was 93 percent of the costs reported. The requirement in subpart 1 is consistent with current family day care rule requirements under *Minnesota Rules*, part 9502.0335, subpart 16 and adult foster care rule requirements under *Minnesota Rules*, part 9555.5415 subpart 2. No effort has been made to reconcile Ramsey County's unusually high estimate. The identified costs estimates have not been treated as "new" costs under Rule 13.

**2. Subp. 2.** Unlicensed child foster care. \$0

Less than 10 percent of the responding counties identified subpart 2 as a new cost.

### 6. Part 9543.0090 CORRECTION ORDERS.

**1. Subpart 1.** Correction orders; training. \$26,931

24 counties identified additional costs totalling \$20,198. If the estimates represent 75 percent of the total costs to all counties, 100 percent is \$26,931.

**2. Subp. 4.** Compliance with correction order. \$28,549

17 counties identified additional costs totalling \$114,194. A number of counties identified very high costs because they interpreted the rule to require on-site visits after every correction order issued. The rule has been clarified to require the license holder to provide verification of compliance with a correction order. Currently, license holders return a signed copy of the correction order when the

correction has been made. This practice can continue. Requiring the license holder to submit verification of correction will reduce the fiscal impact on the counties. The estimated cost above is 25 percent of the costs originally reported.

**7. Part 9543.0100 RECOMMENDING NEGATIVE LICENSING ACTIONS.**

**1. Subp. 2.** Immediate suspension of license. \$0

Less than 10 percent of the responding counties identified subpart 2 as a new cost.

**2. Subp. 5.** License probation. \$3,351

5 counties identified additional costs totalling \$2,513. If the cost estimates represent 75 percent of the total costs to all counties, 100 percent equals \$3,351.

**3. Subp. 6.** Notice to parents of negative licensing actions. \$0

Less than 10 percent of the responding counties identified subpart 6 as a new cost.

**8. Part 9543.0110 ENFORCING ORDERS OF THE COMMISSIONER.**

**1. Subpart 1.** Agency enforcement of commissioners orders. \$0

Less than 10 percent of the responding counties identified subpart 1 as a new cost.

**2. Subp. 2.** Sanctioned programs. \$3,652

5 counties identified additional costs totalling \$2,739. If the cost estimates represent 75 percent of the total costs to all counties, 100 percent equals \$3,652.

**3. Subp. 3.** Programs on probation. \$21,024

9 counties identified additional costs totalling \$15,768. If the cost estimates represent 75 percent of the total costs to all counties, 100 percent equals \$21,024.

**9. Part 9543.0120 REPRESENTING THE COMMISSIONER IN CONTESTED CASE PROCEEDINGS.**

12 counties identified additional costs for "Representing the commissioner in contested case proceedings" and "Informal dispositions". *Minnesota Statutes*, section 388.051, subdivision 1 requires the county attorney to appear in all cases in which the county is a party. Part 9543.0120 will not result in new costs for the county beyond requirements already in statute.

**10. Part 9543.0130 ADMINISTRATIVE REQUIREMENTS.**

**1. Subpart 1.** Maintaining records. \$9,940

5 counties identified additional costs totalling \$7,455. If the cost estimates represent 75 percent of the costs to all the counties, 100 percent equals \$9,940.

**2. Subp. 3.** Training requirements. \$15,269

17 counties identified additional costs totalling \$11,452. If the costs represent 75 percent of the total costs to all counties, 100 percent equals \$15,269.

Estimated additional local costs are \$368,799 for each of the two years following adoption of this rule.

Dated: 8 August 1990

Ann Wynia  
Commissioner of Human Services

**KEY: PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

# Withdrawn Rules

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## Department of Revenue

### Division of Appeals and Legal Services

#### Notice of Withdrawal of Rule as Proposed

NOTICE IS GIVEN THAT the rule regarding Sales and Use Taxation of Advertising and Promotional Material is hereby withdrawn. The rule as proposed was published in the *State Register*, July 16, 1990, at 15 S.R. 107.

# Official Notices

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Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

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## Office of Administrative Hearings

### Workers' Compensation Section

## Department of Labor and Industry

### Workers' Compensation Division

#### Notice of Solicitation of Outside Information or Opinions Regarding Proposed Joint Rules Governing Workers' Compensation Litigation Procedures

NOTICE IS HEREBY GIVEN that the Office of Administrative Hearings and the Department of Labor and Industry are seeking information or opinions from sources outside the agencies in preparing to revise the existing rules and adopt additional rules governing Workers Compensation Litigation Procedures, currently contained in *Minnesota Rules* Parts 1415.0100 through 1415.3600. The adoption of the rules is authorized by *Minnesota Statutes* §§ 14.51 and 176.83, which permits the agencies to adopt rules to govern the procedural conduct of workers' compensation hearings and which may be necessary in order to provide for the orderly processing of claims or petitions made or filed pursuant to *Minnesota Statutes* Chapter 176.

The Office of Administrative Hearings and the Department of Labor and Industry previously requested information and opinions concerning the subject matter of the rules through March 30, 1990. Persons who have previously submitted comments need not do so again insofar as they have been made a part of the rule-making record. Interested persons or groups may submit data or views on the subject matter of concern in writing. Written statements will continue to be accepted through November 15, 1990. Written statements should be addressed to:

Carol A. Eckersen  
Workers' Compensation Judge  
Office of Administrative Hearings  
Workers' Compensation Section  
400 Flour Exchange Building  
310 Fourth Avenue South  
Minneapolis, Minnesota 55415

Any written material received by the Office of Administrative Hearings shall become part of the rule-making record to be submitted to the attorney general or administrative law judge in the event that the rules are adopted.

William G. Brown  
Chief Administrative Law Judge  
Office of Administrative Hearings  
Kenneth B. Peterson  
Commissioner  
Department of Labor and Industry

## Department of Human Services

### Notice of Hospital Cost Index

*Minnesota Statutes 256.969*, subdivision 1 and *Minnesota Rules*, parts 9500.1120 require the establishment of a Hospital Cost Index (HCI) for rate setting purposes for inpatient hospital services under the General Assistance Medical Care and Medical Assistance Programs. The inflation forecasts provided below were obtained from the Data Resources, Inc./McGraw-Hill, *Health Care Costs* as published in the second quarter of 1990 using the percent moving average. The cost category weights were provided by the Minnesota Hospital Association. The HCI will be used to adjust the rates of hospitals whose next fiscal year begins during the fourth calendar quarter of 1990.

*Minnesota Statutes*, 256.9695, subd. 3, (c) limits the HCI to five percent effective June 1, 1990 except in the case of small hospitals that currently meet the criteria for the current rateable increase.

Comments concerning the HCI may be forwarded to the following address:

Richard Tester  
 Hospital Reimbursement Section  
 Audit Division  
 444 Lafayette Road, Fifth Floor  
 St. Paul, Minnesota 55155-3836

<u>Cost Category</u>	<u>Weight</u>	<u>Percent</u>	<u>Weighted Percent</u>
Salaries	.535	7.1	3.80
Employee Benefits	.091	5.5	.50
Medical Fees (Medical Care Service)	.056	8.9	.50
Raw Food	.013	3.9	.05
Medical Supplies (Medical Commodities)	.113	4.4	.50
Pharmaceuticals	.044	4.4	.19
Utilities	.024	3.0	.07
Repairs/Maintenance	.018	4.6	.08
Insurance*	.014	4.6	.06
Other Operating	<u>.092</u>	4.6	<u>.42</u>
	1,000		6.17
		HCI =	6.2%

\*Excludes Malpractice

## Department of Human Services

### Health Care Management Division

#### Notice of Clarification to a Health Service Requiring Prior Authorization Under the Medical Assistance and General Assistance Program

**NOTICE IS HEREBY GIVEN** to the public and providers of Minnesota Medical Assistance (MA) and General Assistance Medical Care (GAMC) of a clarification to the Pharmacy Service for the Clozaril notice published July 2, 1990.

Prior Authorization for Clozaril will be approved for MA and GAMC recipients who are diagnosed with schizophrenia DSM-III-R 295.xx, excluding 295.40 and 295.70, and who have failed to respond to two trials of standard neuroleptic medications.

Prior authorization for Clozaril is limited to recipients who are being served in outpatient settings.

## Department of Human Services

### Hospital Reimbursement Section—Audits Division

#### Notice of Solicitation of Outside Information or Opinions Regarding Amendments to Rules Governing Hospital Medical Assistance Reimbursement

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose amendments to the rules governing hospital medical assistance and general assistance medical care reimbursement, *Minnesota Rules*, parts 9500.1090 to 9500.1155.

The adoption of the rule is authorized by *Minnesota Statutes*, sections 256.9685 and 256.9695, which require the agency to adopt permanent rules to implement the law.

The proposed amendments establish procedures for determining medical assistance and general assistance medical care payment rates under a prospective payment system for inpatient hospital services in hospitals that qualify as vendors of medical assistance.

The State Department of Human Services requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Anu Seam  
Rules Division  
Minnesota Department of Human Services  
444 Lafayette Road  
St. Paul, MN 55155-3816

Oral statements will be received during regular business hours over the telephone at 612/297-1217 by Anu Seam and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the State Department of Human Services shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

## Department of Human Services

### Hospital Reimbursement Section—Audits Division

#### Notice of Solicitation of Outside Information or Opinions Regarding Amendments to Rules Governing Hospital Admissions Certification as a Requirement of Medical Assistance and General Assistance Medical Care Reimbursement

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose amendments to the rules governing hospital admissions certification as a requirement of medical assistance and general assistance medical care reimbursement, *Minnesota Rules* parts 9505.0500 to 9505.0540.

The adoption of the rule is authorized by *Minnesota Statutes*, sections 256B.04, 256B.503 and 256D.03, subdivision 7(b) which requires the agency to establish standards for utilization review in the general assistance medical care program that conform to the procedures established for the medical assistance program.

The proposed amendments establish procedures for admission certification to be followed by admitting physicians and hospitals seeking medical assistance or general assistance medical care payment under *Minnesota Rules*, parts 9500.1090 to 9500.1155. The proposed amendments also coordinate the hospital admissions certification requirements with the procedures related to hospital medical assistance reimbursement as set forth in *Minnesota Rules*, parts 9500.1090 to 9500.1155. (*Minnesota Rules*, parts 9500.1090 to 9500.1155 are being amended concurrently with the amendments to *Minnesota Rules*, parts 9505.0500 to 9505.0540.)

The State Department of Human Services requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Anu Seam  
Rules Division  
Minnesota Department of Human Services  
444 Lafayette Road  
St. Paul, MN 55155-3816

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## Department of Natural Resources

### Minerals Division

#### Notice of Sale of State Metallic Minerals Leases

**NOTICE IS HEREBY GIVEN** that a sale of leases to prospect for, mine and remove metallic minerals in trust fund lands, lands and minerals forfeited for non-payment of taxes, lands and minerals otherwise acquired, and other state-owned land under the jurisdiction of the Commissioner of Natural Resources, and located in portions of Itasca, Koochiching, Lake, Lake of the Woods, and St. Louis counties, is scheduled to be held on October 4, 1990 at 1:00 p.m. The sale will take place at the Department of Natural Resources, Division of Minerals Building, located at 1525 3rd Ave. E., Hibbing, Minnesota.

The Commissioner of Natural Resources, c/o Division of Minerals, Box 45, 500 Lafayette Road, St. Paul, Minnesota 55155-4045, will receive sealed bids and applications for leases covering minerals in state lands, in accordance with *Minnesota Rules*, parts 6125.0100 through 6125.0700, the metallic minerals rules, issued under the authority of *Minnesota Statutes* Sections 93.08-93.12 and 93.25.

Each application and bid, together with a certified check, cashier's check, or bank money order, payable to the State Treasurer in the sum of \$100.00, must be submitted in a bid envelope obtained from the Commissioner. All bids must be received by the Commissioner at the office of the Division of Minerals, Fourth Floor, DNR Building, 500 Lafayette Road, St. Paul, MN 55155-4045, before 4:30 p.m. of October 3, 1990.

On October 4, 1990, at the time specified, the Commissioner or his representative, together with a designated member of the State Executive Council, will publicly open the bids and announce the amount of each bid separately. At a subsequent time leases will be awarded by the Commissioner, with the approval of the State Executive Council, to the highest bidder for the respective mining units, but no bids will be accepted that do not equal or exceed the base royalty rates set forth in the rules or that do not comply with all provisions of the rules. The right is reserved to the State, through the Executive Council, to reject any or all bids.

The purpose of Minnesota's metallic minerals rules is to promote and regulate the prospecting for, mining and removal of metallic minerals on state-owned and state-administered lands. These rules, and the leases issued under the rules, authorize exploration and development of these minerals and impose certain requirements on the lessee. The requirements include: the payment of minimum rentals which increase with the passage of time, the payment of royalty for all ore mined and removed, the submission of data and other reports, and the addressing of certain environmental considerations. In addition, the state lessee must comply with all applicable regulatory laws. No land or water areas within the Boundary Waters Canoe Area Wilderness or Voyageurs National Park are included in this or any state mineral lease sale.

In the absence of satisfactorily demonstrated past technical and financial competence to perform under similar circumstances, a bidder may be required to provide evidence of technical and financial competence to perform under the state's lease to prospect for, mine and remove metallic minerals. The information requested by the Commissioner must be submitted within 30 days of the date of the request. The State, through the Executive Council, may refuse to award a lease to any bidder not supplying satisfactory evidence of technical and financial competence to perform under the state lease.

Upon the award of a lease, the check submitted with the bid will be deposited with the State Treasurer as a fee for the lease. All bids not accepted will become void, and the checks accompanying such bids will be returned to the respective bidders.

Application and bid forms, bid envelopes, instructions on how bids are to be submitted, copies of the rules (*Minnesota Rules*, parts 6125.0100-6125.0700) and copies of the Mining Unit Book, listing the land areas designated by the Commissioner as mining units, may be obtained from Marty K. Vadis, Acting Director, Division of Minerals, Box 45, DNR Building, 500 Lafayette Road, St. Paul, Minnesota 55155-4045.

## Official Notices

The Mining Unit Book will be available at least thirty days prior to October 4, 1990. Application for each copy of the Mining Unit Book must be accompanied by a check or money order, payable to the State Treasurer in the sum of \$25.00, as a fee for such Mining Unit Book, plus \$1.50 State of Minnesota Sales Tax. Unit books will also be available for inspection at the Hibbing and St. Paul offices of the Division of Minerals.

Dated: 31 August 1990

Joseph N. Alexander, Commissioner  
Department of Natural Resources  
St. Paul, Minnesota

## State Board of Technical Colleges

### Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Rules for Licensure of Postsecondary Technical Education Personnel

**NOTICE IS HEREBY GIVEN** that the State Board of Technical Colleges is seeking information or opinions from sources outside the agency in preparing to amend Chapter Thirty-Five: Rules for Licensure of Vocational Technical Education Personnel and specifically in Aviation Occupations, Aquaculture, Mathematics, Communications, Reading, Small Business Management, Horticulture Occupations, Occupational Skills, Culinary Arts, Automotive Occupations, Marketing Occupations. The adoption of these rules is authorized by *Minnesota Statutes* § 136C.04, subd. 9. and 125.185 subd. 4.

The State Board of Technical Colleges requests information and comments concerning the subject matter of these rules. Interested or affected persons may submit written statements of information or comment orally. Written comments should be addressed to:

Ms. Jeanette Daines  
State Board of Technical Colleges  
100 Capitol Square Bldg.  
550 Cedar Street  
St. Paul, MN 55101  
(612) 296-0679

Ms. Georgia Pomroy  
State Board of Technical Colleges  
100 Capitol Square Bldg.  
550 Cedar Street  
St. Paul, MN 55101  
(612) 296-0680

Oral statements will be received during regular business hours over the telephone at (612) 296-0680 or in person at the above address.

All statements of information and comments shall be accepted until 4:30 p.m., Friday, September 28, 1990. Any written material received by the State Board of Technical Colleges shall become part of the record to be submitted to the Attorney General or Administrative Law Judge in the event the rule is adopted.

Helen Henrie, Interim Chancellor  
State Board of Technical Colleges

### Department of Commerce Regulated Profession Publications

**Banking Laws 1989.** Complete text of state law governing banks, trust companies and other financial institutions. Code #2-76 \$31.95

**Business and Nonprofit Corporation Act of 1989.** Laws governing establishment and conduct of for-profit and non-profit corporations in Minnesota. Chapters 80B, 302A, 317. Code #2-87 \$15.00

**Fair Labor Standards Act 1987.** Minimum wage and overtime compensation standards for employers. Chapter 177. Code #2-75 \$5.00

**Insurance Laws 1988.** A compendium of laws applicable to the insurance business. Includes chapters on company and individual agents licensing requirements. Code #2-1. \$22.95

**Insurance Rules 1989.** Essential licensing information for businesses and agents. Includes standards on policies, practices, marketing and continuing education. Code #3-1 \$18.00

**Notary Public Laws 1989.** Statutory requirements regarding the oath of office, necessary bond, and taking of depositions. Includes an explanation of the term of the office and procedures for removal from office. Code #2-13 \$5.00

**TO ORDER:** Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$2.00 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard and American Express orders accepted over phone and through mail. **Prices are subject to change.** FAX: (612) 296-2265.

**Real Estate Laws 1988.** Complete and up-to-date extract from the 1986 Minnesota Statutes. Code #2-92 \$7.00

**Real Estate Rules 1987.** Contains all education and licensing requirements for agents. Chapters 2800, 2805, and 2810. Code #3-99 \$8.00

**Securities Laws 1989.** Governs the activities of broker/dealers, agents or investment advisors. Chapter 80A. Code #2-12 \$7.00

**Securities Rules 1988.** Subjects include standards of conduct, equity securities, investment companies and more. Chapter 2875. Code #3-5 \$14.00

**Banking Rules 1987.** Code #3-81. \$6.00

**Uniform Commercial Code 1986.** Chapter 336, U.S. laws governing trade, including contracts, title, payment, warranties, performance and liability. Code #2-2 \$10.00

**Mailing Lists.** All kinds available. Call to receive a copy of mailing list service packet. (612) 297-2552.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

# State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. § 14.10, an agency must make reasonable effort to publicize the availability of any services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Commodities contracts with an estimated value of \$15,000 or more are listed under the Materials Management Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Awards of contracts and advertised bids for commodities and printing, as well as awards of professional, technical and consulting contracts, appear in the midweek STATE REGISTER Contracts Supplement, published every Thursday. Call (612) 296-0931 for subscription information.

## Materials Management Division—Department of Administration:

### Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid.

**Commodity:** Coal  
**Contact:** John Bauer 296-2621  
**Bid due date at 2pm:** August 30  
**Agency:** Human Services Department  
Nursing Home  
**Deliver to:** Ah-Gwah-Ching  
**Requisition #:** 55510-03700

**Commodity:** Temporary labor-print shop  
**Contact:** Norma Cameron 296-3779  
**Bid due date at 2pm:** September 5  
**Agency:** Print Communications  
Division—Administration Department  
**Deliver to:** St. Paul  
**Requisition #:** Price contract

**Commodity:** Rain gauges  
**Contact:** Joe Gibbs 296-3750  
**Bid due date at 4:30pm:** September 4  
**Agency:** Agriculture Department  
**Deliver to:** St. Paul  
**Requisition #:** 99780-10309

**Commodity:** Mass communication support  
**Contact:** John Bauer 296-2621  
**Bid due date at 4:30pm:** August 31  
**Agency:** State University  
**Deliver to:** Winona  
**Requisition #:** 26074-13590

**Commodity:** Meat & poultry for October delivery  
**Contact:** Linda Parkos 296-3725  
**Bid due date at 2pm:** September 10  
**Agency:** Corrections  
**Deliver to:** St. Cloud  
**Requisition #:** 78830-10553

**Commodity:** Waste tire abatement—Willmar—Halldin dump  
**Contact:** Norma Cameron 296-3779  
**Bid due date at 2pm:** September 4  
**Agency:** Pollution Control Agency  
**Deliver to:** Willmar  
**Requisition #:** Price Contract

**Commodity:** Uniform trousers  
**Contact:** Linda Parkos 296-3725  
**Bid due date at 2pm:** September 4  
**Agency:** Public Safety Department  
**Deliver to:** St. Paul  
**Requisition #:** 07700-11064

**Commodity:** Dental supplies  
**Contact:** Joseph Gibbs 296-3750  
**Bid due date at 4:30pm:** September 4  
**Agency:** Human Services Center  
**Deliver to:** Cambridge  
**Requisition #:** 55201-08077

**Commodity:** Rubbish disposal  
**Contact:** Joyce Dehn 297-3830  
**Bid due date at 2pm:** September 5  
**Agency:** Normandale Community College  
**Deliver to:** Bloomington  
**Requisition #:** Price Contract

**Commodity:** Rent financial information  
**Contact:** John Bauer 296-2621  
**Bid due date at 4:30pm:** September 9  
**Agency:** Investment Board  
**Deliver to:** St. Paul  
**Requisition #:** 38000-10105

**Commodity:** Dental supplies  
**Contact:** Joseph Gibbs 296-3750  
**Bid due date at 4:30pm:** September 6  
**Agency:** Human Services Center  
**Deliver to:** Cambridge  
**Requisition #:** 55201-08065

**Commodity:** RFP for multimedia presentation system  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 2pm:** September 7  
**Agency:** Vocational Technical Education  
**Deliver to:** Eden Prairie  
**Requisition #:** 36000-50067

**Commodity:** Waste tire abatement—Carlton County—Laitinen Dump  
**Contact:** Norma Cameron 296-3779  
**Bid due date at 2pm:** September 14  
**Agency:** Pollution Control Agency  
**Deliver to:** Carlton County  
**Requisition #:** Price Contract

## State Contracts and Advertised Bids

### Department of Administration: Print Communications Division

Printing vendors for the following printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

**Printing vendors NOTE: Other printing contracts can be found in the Materials Management Division listing above, and in the Professional, Technical & Consulting Contracts section immediately following this section.**

**Commodity:** Explore Southern MN Travel Guide, 125M 112-pages, 8¼" x 10¾", 2-sided, negs available, 4-color, seps, saddle stitch, deliver various locations state and nationally

**Contact:** Printing Buyer's Office

**Bids are due at 2pm:** September 6

**Agency:** Trade & Economic Development Department

**Deliver to:** St. Paul

**Requisition #:** 10530

**Commodity:** 1990 Year End Processing and Mailing of Tax Forms, 1,020M pieces total, includes printing and detailed schedules

**Contact:** Printing Buyer's Office

**Bids are due at 2pm:** September 10

**Agency:** Revenue Department

**Deliver to:** Many locations statewide

**Requisition #:** 10898

### Pheasants in Minnesota

*Pheasants in Minnesota*, focusing exclusively on the ringneck pheasant, this DNR booklet tells of this popular game bird's origin, introduction and development in Minnesota. Through many full-color photos the book shows the pheasant in various settings, tells how to maintain wildlife habitat and explains the wise management of the hunt. A great gift for each member of your hunting party, or as a memento to a special Minnesota hunting vacation. Quantity discounts available. Code #9-13, \$5.95.

*Woodworking for Wildlife*, delightfully written and carefully illustrated with a variety of game bird and mammal box designs. Includes important information on the placement of nests in proper habitat areas and maintenance requirements. Diagrams, 48 pp. Code #9-14, \$3.95.



**TO ORDER:** Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$2.00 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard and American Express orders accepted over phone and through mail. *Prices are subject to change.* FAX: (612) 296-2265.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

# Professional, Technical & Consulting Contracts

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

## Department of Corrections

### Minnesota Jail Resource Center

#### Request for Proposals for Training

The State of Minnesota, acting through the Minnesota Jail Resource Center located in the Department of Corrections, seeks qualified consultants to present 6 or more training sessions for jail employees and other county officials. The chosen consultant/trainers must have a proven record of correctional training. Top priority will be given to consultant/trainers who have direct experience in delivering National Institute of Corrections (NIC) curriculum and lesson plans:

1. First Line Jail Supervisor Training (3 days)
2. Jail as a Part of County Government (3 days)
3. Training for Jail Trainers (4 days)
4. Training for Jail Field Training Officers (3 days)
5. Jail Staffing Analysis and Scheduling (3 days)
6. Jail Crowding and Population Management (3 days)
7. Other topics as Developed

The selected consultant/trainers will be chosen based upon proven NIC experience, thoroughness of training proposal, cost effectiveness, and availability for training session dates. Each contract is expected to range from \$1,000 to \$3,000. Cost estimate for the entire program is \$24,000 involving up to 14 individual contracts. Interested consultants/trainers may submit for individual sessions or for the entire program.

For further information contact:

Tom Reid, Director 612 642-0249  
Minnesota Jail Resource Center/DOC  
300 Bigelow Building  
450 N. Syndicate Street  
St. Paul, MN 55104  
(612) 642-0249

Deadline for receipt of proposals is September 14, 1990.

## State Designer Selection Board

### Request for Proposal for Two Projects

#### To Minnesota Registered Design Professionals:

The State Designer Selection Board has been requested to select designers for two projects. Design firms who wish to be considered for these projects should deliver proposals on or before 4:00 p.m., September 18, 1990, to George Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administration Building, St. Paul, Minnesota 55155-1495.

#### The proposal must conform to the following:

- 1) Six copies of the proposal will be required.
- 2) All data must be on 8½" x 11" sheets, soft bound.
- 3) The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 7 below, together with the designer's firm name, address, telephone number and the name of the contact person.

#### 4) *Mandatory Proposal contents in sequence:*

a) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc. If the response is from a joint venture, this information must be provided for firms comprising the joint venture.

## Professional, Technical & Consulting Contracts

b) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If desired, identify roles that such persons played in projects which are relevant to the project at hand.

c) A commitment to enter the work promptly, if selected, by engaging the consultants, and assigning the persons named 4b above along with adequate staff to meet the requirements of work.

d) A list of State and University of Minnesota current and past commissions under contract or awarded to the prime firm(s) submitting this proposal during the three (3) years immediately preceding the date of this request for proposal. The prime firm(s) shall **list and total** all fees associated with these projects whether or not the fees have been received or are anticipated. In addition, the prime firm(s) shall indicate the amount of fees listed which were paid directly to engineers or other specialty consultants employed on the projects listed pursuant to the above.

e) A section containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described. It must be noted if the personnel named were, at the time of the work, employed by other than their present firms.

The proposal shall consist of no more than twenty (20) pages. Proposals not conforming to the parameters set forth in this request will be disqualified and discarded without further examination.

### 5) Statutory Proposal Requirements:

In accordance with the provisions of *Minnesota Statutes, 1981 Supplement*, Section 363.073; for all contracts estimated to be in excess of \$50,000.00, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted.

**The proposal will not be accepted unless it includes one of the following:**

- a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or
  - b) A statement certifying that the firm has a current certificate of compliance issued by the Commissioner of Human Rights;
- or
- c) A statement certifying that the firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months; or
  - d) A statement certifying that the firm has an application pending for a certificate of compliance.
- 6) Design firms wishing to have their proposals returned after the Board's review must follow one of the following procedures:
- a) Enclose a self-addressed stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded; or
  - b) Enclose a self-addressed stamped mailing envelope with the proposals. When the Board has completed its review, proposals will be returned using this envelope.

In accordance with existing statute, the Board will retain one copy of each proposal submitted.

Any questions concerning the Board's procedures or their schedule for the project herein described may be referred to George Iwan at (612) 296-4656.

### 7a) PROJECT—27-90

Walter Library Renovation  
University of Minnesota

The University of Minnesota is planning to renovate the Walter Library building located on the Minneapolis campus. The existing building, completed in 1924, consists of 169,000 asf and 267,000 gsf. Walter Library has architectural importance for the campus because of the exceptional beauty and detail of the reading rooms and public spaces. It is one of the key buildings which were constructed to realize the design for the East Bank Mall designed by Cass Gilbert.

Typical of library buildings in the earlier part of the twentieth century, Walter Library has a stack tower designed with the book stacks as the structural element of the tower. The design makes very efficient use of the available storage volume, but has the possibility for catastrophic loss of life and collections in the event of a fire.

As the campus and library needs have changed, the existing facility no longer efficiently or safely meets the program demands. The existing facility must remain in use throughout the construction period. The architect must consider the on-going operations, phasing of work, schedule, and future operations in the design of the project. The construction budget is approximately \$27,350,000.00.

Specific issues to be addressed in the renovation of the building include:

- General cleaning, patching, painting, and restoration;
- Fire protection;
- Air conditioning and humidity control;
- Improved electrical and telecommunications;
- Upgrade corridor wall fire ratings and provide two hour separation for the stack core;
- Provide the proper size and number of rated exits for all levels;
- Provide handicapped accessibility;
- Provide emergency and egress lighting;
- Evaluate the building shell to increase energy efficiency and reduce operating costs.

In addition, the renovation shall enable Walter Library to meet current library standards, maximize space utilization, and provide a high quality research and study facility. The organization of the facility must promote efficiency and ease of operation for both the users and the staff. It is necessary for the designer to prepare a long-term, flexible, and somewhat generic concept indicating how the building can best be utilized.

It is important that the overall design retain the historical aesthetic image of the building and preserve and enhance the site amenities. The designer shall have previously demonstrated restoration design ability and energy conscious design experience. Prior experience in the design of libraries is expected and experience with similar library restoration is desirable.

Questions concerning this project may be referred to Clinton Hewitt at (612) 625-7355.

### 7b) PROJECT—27-90

Decision Driving Range  
Dakota County Technical College

**NOTE:** Due to the fact that sufficient proposals responsive to the Board's mandatory requirements were not originally received, the Board has rejected all proposals and is herewith reissuing the request for proposal for this project.

Design and construct a decision driving range for use in the training of emergency responders, school bus and truck drivers. The designer shall consider inputs of other sites already having a course of this nature and will work with the campus advisory committee in the final design. Any funds remaining after completion of the driving course may be used for the design and construction of additional classrooms. The maximum allowable expenditure for the entire project including fees, is \$1,200,000.00. Significant civil engineering experience in this type of project is highly desirable.

**Local Contact:** David Schroeder (612) 423-2281

Richard F. Whiteman, Chairman  
State Designer Selection Board

## Department of Gaming

### Minnesota State Lottery

#### Request for Proposals for the Design, Layout, and Printing of the Lottery's Annual Report

The Minnesota State Lottery desires proposals for the design, layout and printing of the Lottery's Annual Report. This proposal does not obligate the state to complete this project, and the state reserves the right to cancel the solicitations if it is considered to be in its best interest.

#### Background

The Lottery's 1990 annual report will cover FY '90 from July 1, 1989 through June 30, 1990. However, most of the information (promotional copy and balance sheets) will cover the months from November through June. The issue will cover many of the highlights from the first year of operation. The report will cover financial information, but also serve as an attractive marketing/promotional background piece for distribution to special audiences (e.g., Legislators, government officials, Lottery Board).

#### Production Services Needs

The design firm would be responsible for design comps, layout and design (preferably on desktop system), illustration, charts and graphs, preparing final product for printer. Such areas would include positioning of artwork and graphs, indication color, and developing

## Professional, Technical & Consulting Contracts

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printer instructions. Also, the design firm would be responsible for printing supervision, including review of color keys or match-print proofs, press checks, etc.

### Printing Service Needs

The report is to be printed on recycled paper with four-color process. The report is expected to be 12 pages and output on Linotronic. All photos/negatives/slides will be provided by the Minnesota State Lottery. Estimated copies: 12,000.

The formal RFP may be requested and inquiries directed to: Tom Barrett, Administrative Services Manager, Minnesota State Lottery, 2645 Long Lake Road, Roseville, MN 55113 (612-635-8108). The deadline for completed proposals is 4:30 p.m., September 7, 1990.

## Department of Natural Resources

### Notice of Request for Proposals for Consultant to Conduct Static and Kinetic Tests for the Prediction of Mine Waste Drainage pH

The Department is requesting proposals from any qualified individual or firm interested in assisting in a project entitled "Evaluation of Tests for Predicting Mine Waste Drainage pH". The work to be contracted involves conducting static and kinetic tests for the prediction of mine waste drainage pH.

Proposals must be received by 4:30 p.m., September 12, 1990. Evaluation and selection will be completed by September 19, 1990. A final report will be due on December 14, 1990.

For a copy of the Request for Proposal contact:

Kim Lapakko  
Senior Engineer  
Department of Natural Resources  
P.O. Box 567, 1525 Third Ave. E.  
Hibbing, Minnesota 55746  
218/262-6767

## State Planning Agency

### Governor's Advisory Council on Technology for People With Disabilities/Star Program

### Request for Proposals for Professional/Technical/Consulting Services in the Area of Technology to Assist Individuals With Disabilities and Their Families

The Governor's Advisory Council on Technology for People with Disabilities/STAR program is requesting proposals from individuals and firms to provide technology-related assistance to individuals with disabilities in the following areas:

- develop concept and program plan for manufacturing and distribution forum
- training of individuals and families for participation in STAR
- coordination and delivery of training for professionals
- research and writing of public education brochures
- evaluation of STAR programs.

**PROPOSALS MUST BE RECEIVED NO LATER THAN 4:30 P.M., OCTOBER 1, 1990.** Copies of the Request for Proposals are available on request. Inquiries and requests should be directed to:

Rachel Wobschall  
STAR Program/Minnesota State Planning Agency  
300 Centennial Building  
658 Cedar Street  
St. Paul, Minnesota 55155  
(612) 296-2771 or (612) 296-9962 TDD

## Department of Transportation

### Operations Division/Metropolitan District

#### Availability of a Contract to Provide Management With Organization Development Assistance in the Merger into the Metropolitan District of the Minnesota Department of Transportation, Using the W. Edwards Deming Philosophy of Quality Improvement Including Statistical Process Control

The budgeted amount for this project is approximately \$80,000 and the duration is one year, with possible renewal for another year. To receive the Request for Proposal, please contact:

Darlene R. Lazer  
Administrative Assistant  
Mn/Dot—Metro District  
Room 120 Transportation Building  
St. Paul, Minnesota 55155  
Telephone: (612) 297-7323

Technical Inquiries should be directed to:

Sandra Vargas  
Mn/DOT  
Room 120 Transportation Building  
St. Paul, Minnesota 55155

#### Submission Deadline:

Deadline for submission of completed proposals: 4:30 p.m., September 20, 1990.

Completed proposals should be addressed to:

Minnesota Department of Transportation  
Metropolitan District  
Room 120 Transportation Building  
St. Paul, Minnesota 55155  
(612) 297-7324  
ATTENTION: Sandra Vargas

## Department of Transportation

### Notice of Request for Proposals to Design and Deliver Supervisory Training to MN/DOT's Supervisors

The Minnesota Department of Transportation solicits proposals from qualified consultants or firms experienced in the successful development and delivery of supervisory training.

#### Scope of Project

The purpose of this project is to provide a quality training product directly based on the results of a supervisory needs assessment. The consultant will provide certain technical and professional services as described herein:

**Objective and Goals** (See proposal contents)

#### Project Tasks

1. To design, develop, conduct and evaluate a training program to meet the above goals and objective.
2. To conduct 1-2 focus groups to serve as both a developmental and marketing tool. This event would serve to confirm identified training needs and determine other training needs beyond the scope of this project.

# Professional, Technical & Consulting Contracts

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## Department Contacts

Sheryl Furness  
Employee Development Specialist  
Department of Transportation  
515 Transportation Building  
John Ireland Boulevard  
St. Paul, Minnesota 55155  
(612) 297-3897

Sue Muehlbach  
Acting Director  
Employee Development  
Department of Transportation  
515 Transportation Building  
John Ireland Boulevard  
St. Paul, Minnesota 55155  
(612) 296-3125

Sheryl Furness and Sue Muehlbach are the only employees allowed to discuss or answer questions regarding this RFP.

## Submission of Proposals

All proposals must be sent to and received by October 12, 1990, 4:30 p.m. Please send to:

Sue Muehlbach  
Acting Director, Employee Development Section  
Department of Transportation  
515 Transportation Building  
John Ireland Boulevard  
St. Paul, Minnesota 55155  
(612) 296-3125

## Project Costs

The Department has estimated that the cost of this project should not exceed \$18,000.

## Project Completion Date

The project will be completed by December 1991.

## Proposal Contents

1. Objective: To assist supervisors in building better skills in the areas of managing teams and coping effectively with change and conflict.

A. Goals: To develop an understanding of their personal leadership styles and the impact on the organization.

Tasks:

1. Use a leadership instrument to identify leadership style.
2. Apply leadership style to management of work team.

B. To develop an understanding of the change process within an organizational culture.

Tasks:

1. Use a model of organizational and human dynamics for managing change.
2. Apply model to organizational goals and individual work group.

C. To develop realistic strategies to effectively manage team roles and relationships within the Mn/DOT culture.

Tasks:

1. Teach a problem-solving process to assist participants in decision-making and team management.

D. To develop communication skills to improve peer and employee relationships.

Tasks:

1. To assist participants in building relationships within their teams.
2. To communicate clearly and persuasively.

E. To develop skills to facilitate effective management of conflict and change.

Tasks:

1. To assist participants in developing negotiation skills and resolve conflict.
2. Learn to constructively confront differences within team.

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## Professional, Technical & Consulting Contracts

F. To develop skills to create positive work environments which result in positive attitudes of work teams members.

Tasks:

- a. Empower participants to create a work environment that encourages recognition and respect for individual team members.
- b. Empower participants to create a work environment that encourages creativity in problem solving and decision-making.

### 2. Deliverables

- A. A focus group to clarify objective and goals.
- B. Supervisory training program to meet the above objective, goals and tasks.
- C. Evaluation tool to measure effectiveness of supervisory training program.
- D. Summary report of results of program and future recommendations.

3. Respondent will have the following background and experience:

- a. Knowledge and skills in supervisory training and development, specifically in team building, conflict management, communication, human relations and problem solving. Group facilitation and presentation skills.
- b. Experience in management/supervisory development.
- c. Sample product design.
- d. References of past employers where above knowledge and skills were demonstrated.

4. Respondent will complete a detailed cost and work plan which will identify the major tasks to be accomplished and be used as scheduling and managing tool as well as basis of invoicing.

5. Mn/DOT's employee development representatives will be involved in selection process, project management and evaluation process.

### Evaluation

All proposals received by the deadline will be evaluated by representatives of the Department of Transportation. Factors upon which proposals will be judged include, but are not limited to the following:

1. Expressed understanding of proposed objectives;
2. Project work plan;
3. Project cost detail;
4. Qualifications of both company and personnel, particularly with regard to supervisory training and development. Experience of project personnel will be given greater weight than that of the firm.
5. In our selection process, Mn/DOT reserves the right to request an oral presentation of the product.
6. Option to purchase product at an agreed upon licensing fee at a later date would be considered.

## Minnesota State University System

### Notice of Request for Proposals for Fiscal Management of Supplemental Retirement Plan—A Defined Contribution Program

The Minnesota State University System is directed by Legislative action to assume responsibility for the Supplemental Retirement Plan established for its faculty and unclassified managers. This legislation becomes effective July 1, 1991. In preparation for this change in management from the Teachers Retirement Association to the State University Board, the Board is requesting RFP's from firms interested assuming this responsibility under a professional/technical services contract.

The College Supplemental Retirement Fund has approximately 1300 members from the State University System at any one time. Effective July 1, 1990, members contribute up to \$1000 annually. This amount is matched by the employer (State of Minnesota), for a total annual contribution per member of \$2000. The College Supplemental Retirement Fund also includes the management of all past contributions since its inception in 1965.

The purpose of the RFP is to enable the Board to determine whether it is more feasible for it to contract out the fiscal management of the Plan than to manage it internally. Items to be addressed in the RFP shall include but need not be limited to:

## Professional, Technical & Consulting Contracts

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- Review of the cost estimate involved in establishing new accounts, appropriate reporting to member and IRS, processing refunds and redemptions as necessary.
- Cost estimate for preparation of a format for and production of annual reports sufficient to meet statutory requirements for reporting to the State Commission on Pensions.
- Cost estimate or hourly rate established in order to manage communication with seven (7) State University Campuses necessary to implement the fiscal procedures.

In order to assist potential responders the Board has available certain background materials pertaining to the College Supplemental Fund and the current management of it. Please contact the following individuals for additional information:

Mary E. Stanton  
Director of Contract Management, Legal & Technical Services  
555 Park Street, Suite 230  
St. Paul, MN 55103  
(612) 296-7506

Gerald Rushenberg  
Associate Vice Chancellor for Finance  
(same address)  
(612) 297-1626

In any case, RFP's should be received by the Board—addressed to Gerald Rushenberg—NO LATER THAN 4:30 p.m., Friday, September 14, 1990. Responders should be aware that the Board reserves the right to withdraw this request or to elect whether or not to issue a contract with any of the responders based on the responses to the RFP. A decision to issue a contract may be based on factors other than cost alone including the results of written recommendations by other firms by which responders have been engaged.

## Bemidji State University

### Department of Professional and Applied Studies

#### Notice of Availability of Contract for Evaluation of a Three-Year Education Grant

The Bemidji State University/Cass Lake-Bena School District Partnership Program requires the services of a consultant to undertake a comprehensive evaluation of Program impact and effectiveness, and to submit a report of findings to the Partnership Program Director and Board of Directors.

The consultant must have experience and background working with Educational systems; Survey and instrument development; data collection, coding and analysis; and final report writing and presentation.

Consultant will also be required to assist Program staff in building a model to disseminate to other school districts and institutions of higher education.

Individuals desiring consideration should submit a resume of their experience, before September 10, 1990, to:

Christine Imbra, Project Director  
Bemidji State University/Cass Lake-Bena School District Partnership Program  
Bemidji State University  
409 Education Art Building  
1500 Birchmont Drive NE  
Bemidji, MN 56601-2699  
Telephone: (218) 755-4055/4054

# Non-State Public Contracts

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The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

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## Metropolitan Waste Control Commission

### Public Notice for Prequalification for Engineering Services

NOTICE IS HEREBY GIVEN that the Metropolitan Waste Control Commission is soliciting prequalifications for engineering design services for the following:

Project Number

1. 910200

Project Name

Blue Lake Solids Processing

All firms interested in being considered for this project are invited to submit a letter asking for the project prequalification submittal forms.

All inquiries and submittals are to be addressed to Mr. Ray Payne, Program Development Manager, Metropolitan Waste Control Commission, Mears Park Centre, 230 East Fifth Street, St. Paul, Minnesota 55101, (612) 229-2186.

By Order of the

METROPOLITAN WASTE CONTROL COMMISSION

Mr. Gordon O. Voss  
Chief Administrator

# Supreme Court Decisions, Opinions & Rules

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## Opinions Filed 24 August 1990

**C0-90-1635 Rainer L. Weis, Appellant v. State of Minnesota and Rudy Perpich, Governor of the State of Minnesota. Ramsey County.**

Affirmed. Popovich, C.J.

## Orders

**C1-90-1367 In Re the Petition for Disciplinary Action against Martin J. Lipske, an Attorney at Law of the State of Minnesota. Supreme Court.**

Suspended. Kelley, J.

## Notice of Move

Please note our new address effective August 20, 1990:

Minnesota Judicial Center  
25 Constitution Avenue  
St. Paul, MN 55155-6102

Offices located in the Minnesota Judicial Center are:

Minnesota Supreme Court  
Minnesota Court of Appeals  
Clerk of Appellate Courts  
Attorney Registration Office  
State Law Library

State Court Administrator's Office  
Supreme Court Accounting/Personnel  
Information Systems Office  
Judicial Advisory Service  
Research and Planning Office  
Supreme Court Continuing Education

Information phone number: (612) 297-7650

# Announcements

**Hearing Instrument Dispenser Advisory Council:** Sister Mary Madonna Ashton, Minnesota Commissioner of Health, has announced plans to appoint seven Minnesotans to serve on a new Hearing Instrument Dispenser Advisory Council. The council will advise the Commissioner on the operation of a statewide registration program for hearing instrument dispensers. Under a system of registration, qualified persons who become registered are given the exclusive right to use certain occupational titles. Registered hearing instrument dispensers must meet minimum entry qualifications and mandatory continuing education requirements. They can also be disciplined for engaging in unlawful acts. The seven appointees to the council include two members of the public, three hearing instrument dispensers, one audiologist who sells hearing instruments, and a licensed physician specializing in the treatment of diseases of the ear. Their term will begin on August 27, 1990. The advisory council members are **Harold Draving**, Minneapolis; **Maxine Horowitz**, St. Paul; **David Nygren**, Plymouth; **V. Terry Rhodes**, Bloomington; **Julie Rindalub**, St. Paul; **Charles Stone**, Edina; and **John Thompson**, Cottage Grove.

**Metropolitan Council:** The Metropolitan Council appointed **Marilyn Jennings** of St. Paul to its Minority Issues Advisory Committee. Jennings, a housing technician at the Minnesota Housing Finance Agency, will represent the state Indian Affairs Council, which recommended her to the Council. She replaces Delbert Cavanaugh. The 25-member committee identifies and studies major issues and trends affecting minority communities in the Twin Cities Metropolitan Area. It also reviews Council policies and plans to determine their impact on minority communities and recommends ways that the Council can be more responsive to those communities. Twelve members are appointed at large and four members represent each of the four state councils for minority communities: the Asian-Pacific Council, the Council on Black Minnesotans, the Indian Affairs Council and the Spanish Speaking Affairs Council. • The council also appointed three new members to its Metropolitan Health Planning Board. **Anthony Finell** of West St. Paul, **Jeanette Lasstrom** of Richfield and **Mary Patricia Rodenberg** of St. Paul were named to the board. The 25-member board assists the Council in developing and implementing policy plans for the delivery of health services in the region, including ways to contain rising health costs. At least 13 members are consumers of health care services, and the rest are providers representing health care professionals and institutions. • Applications are being taken from residents of the seven-county Metro Area who are interested in serving on the council's Disabilities Advisory Committee. The volunteer committee advises the Council on the needs of people with mental, physical and developmental disabilities, and helps coordinate planning to meet those needs. For more information, call Kay Zwernik at the Council at 291-6364. For an application form, call Stephanie Andress at 291-6427. The application deadline is Sept. 18. The Council will make the appointments on Sept. 27, and the new terms will begin Oct. 1. • The council is seeking candidates to represent District G on the Metropolitan Parks and Open Space Commission. District G includes Carver and Scott Counties, western Hennepin County and the cities of Burnsville and Lakeville in Dakota County. The term of the District G representative ends in January 1993. The Council's Metropolitan Agencies Appointments Committee will hold a public meeting on Thursday, Sept. 20 to hear statements from and on behalf of candidates for the post. The commission meets at 4 p.m. on the second and fourth Mondays of each month. Members are paid per diem and reimbursed for parking. For more information or an application, call Sandi Lindstrom of the Council staff at 291-6390. The public meeting will be held at 7:30 p.m. in the Council Chambers, Chaska City Hall, 1 City Plaza, Chaska. The appointments committee will make a recommendation to the full Council, which makes the appointment. • Volunteers are being sought to fill four vacancies on the council's Transportation Advisory Board (TAB). The 30-member TAB advises the Council on transportation matters involving the regional highway, public transit and airport systems. It reviews and adopts the region's three-year transportation improvements program, and develops priorities for projects funded under two federal programs. The TAB meets once a month. Members are also expected to serve on one or more subcommittees, which meet as needed, but rarely more than once a month. For more information and an application, call Jan Martin at the Council at 291-6308. The application deadline is Sept. 14. The Council will make the appointments on Sept. 27.

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